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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 14 September 1994

Journal des débats (Hansard)

Mercredi 14 septembre 1994



**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

**Planning and Municipal Statute Law
Amendment Act, 1994**

**Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités**

Chair: Rosario Marchese
Clerk: Donna Bryce

Président : Rosario Marchese
Greffière : Donna Bryce

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Wednesday 14 September 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Mercredi 14 septembre 1994

The committee met at 1034 in the Airline Hotel, Thunder Bay.

PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

THUNDER BAY HOME BUILDERS' ASSOCIATION

The Chair (Mr Rosario Marchese): We're ready to listen to René Larson, who's the member from Thunder Bay Home Builders' Association, including Don Manahan. We're happy to be here in Thunder Bay and we welcome you to this committee.

Mr René Larson: Thank you, Mr Chairman. I'm a practising lawyer in the municipal and land development field, and Mr Manahan is a practising private planning consultant. We work together with the Ontario Home Builders' Association and the Thunder Bay Home Builders' Association and they have asked us to come and bring their views to you. We do welcome you to northwestern Ontario and we very much appreciate the time and commitment of the members of the standing committee to come to this part of the province to listen to our views on Bill 163.

We recognize that northwestern Ontario is lacking representation on your committee and that your perspective from other parts of Ontario is different than ours. However, we know that your sense of fairness and justice will prevail, a common trait of Ontarians in general.

There's a definite contrast between the recommendations of the Sewell commission and the intent of the Ontario government as represented in Bill 163. While John Sewell spent a considerable amount of time and energy in northwestern Ontario listening to the people who live here, and his recommendations evidence that, Bill 163 appears to be a conglomerate of a select few of his recommendations taken out of context combined with an overabundant measure of self-interested reforms of the planning staff of the Toronto headquarters of the Ministry

of Municipal Affairs. You will find that we are not happy with the plans administration branch of the Ministry of Municipal Affairs and we intend to tell you why today.

Sewell promised local administration and decision-making in planning matters in northwestern Ontario under an umbrella of relevant provincial guidelines. He proposed to do that by expanding local planning boards where municipal administrations were not available. Plain and simple, that is why the people of northwestern Ontario liked his ultimate recommendations. He saw our need to be able to make local planning decisions within a context of provincial standards. He cautioned us to learn from the history of planning decisions in other parts of Ontario, and we take note of that, and to have the highest regard for our natural environment, which surrounds us in all its abundance and beauty.

We did not love him for his views of a highly urbanized lifestyle, which quite frankly has no relevance to how we live and want to live in northwestern Ontario. We don't want to be an urban jungle. We want to have the opportunity to live on large lots without sewage systems that are central sewage systems in a municipality, and we believe that we can live in harmony with nature. We also believe that we can live on lakes, and if you fly over northwestern Ontario, you'll see there are a lot of lakes out there. We really think that we can live there permanently and also in a cottaging fashion and that there's two different types of residency that are compatible with each other and also compatible with our environment.

Unfortunately, the plans administration branch in Toronto that administers our area thinks that we can't live on lakes. Really, that's their viewpoint, and we're having tremendous problems dealing with the growth and settlement guidelines. Mr Manahan will get into that with you.

We had hoped that we would be able to take the best of the planning principles of the south, as enunciated in government policy statements, and apply these principles to our local situation with appropriate modifications to fulfil our dreams for northwestern Ontario. We need to "have regard to" provincial policies rather than "be consistent with" them, and to "be consistent with" them in the manner as interpreted by the plans administration people in Toronto. That's our problem, the interpretation, and we don't want to arm them with this extra gun of "being consistent with." We would rather "have regard to." We need local decision-making in planning our portion of this beautiful province.

Instead the government has given us in Bill 163 no local empowerment and a set of horse-choking policies

which are in the hands of the MMA bureaucrats in Toronto who will still make the decisions and advise us what we want without listening to us. These policies, as interpreted by Toronto civil servants armed with the new ultimate weapon of "be consistent with," will seriously and irreparably harm and hinder our efforts to develop our local economies.

We in northwestern Ontario must look to our land as the major resource for economic development. The fruits of the land we currently enjoy, the forests and the minerals, require development, not protection. Our woodlots are our jobs. In southern Ontario you may wish to protect your trees from encroaching development, but to us our trees and their development represent one of our only possible avenues for preventing decline in our population, and we do experience an absolute decline in population over the years if you look at the statistics. The only growing area of population in northwestern Ontario is the natives.

We have countless acres of land with lakes suitable for cottaging, an activity that can draw Americans from the Midwest and by proven survey would inject a minimum of \$8,000 per cottage per year into our local economies, not to mention the substantial benefits of initial site development and construction activity. Yet for at least two years we have been battling against MMA's growth and settlement guidelines and the interpretations of Toronto bureaucrats which would prohibit such cottage development on the grounds that such plans are beyond the needs of the local populace.

In other words, take the city of Thunder Bay. There are x number of people here, 110,000, and that means by some formula there would be y number of cottages and we can't develop any more than that. But we think that we should be looking outside of our boundaries of this province to the United States and inviting those people to come and partake in an environmentally proper and friendly manner in our economy.

1040

So give us your provincial policies with clear guidelines for implementation and clearly enunciated standards to adopt, make us "have regard to" same in our planning decisions and delegate the approval authority to the regional office of the Ministry of Municipal Affairs. We sorely need the ability to talk to people in Thunder Bay in this case, and that's where the regional office is. All the other ministries that we deal with are in Thunder Bay. We can talk to them, but we have to talk to Toronto to deal with plans administration. We can talk later about further delegation to local planning authorities with appropriate government funding to carry out their mandate. Then we can sleep in the beds that we make for ourselves, and we're prepared to do that.

The Thunder Bay Home Builders' Association is a member organization of the Ontario Home Builders' Association and as such actively partakes in its activities, which include the land development committee.

The OHBA has prepared a response to Bill 163 dated August 25, 1994, and we wish to advise the standing committee that Thunder Bay Home Builders' Association wholeheartedly supports and endorses the OHBA posi-

tion. We do not intend to repeat the submissions of OHBA point by point, but we would like to bring to you the northwestern Ontario perspective on planning reform in Ontario.

Having read about the minister's appearance before this standing committee on August 29, 1994, Thunder Bay Home Builders' Association seriously thought twice about appearing before you. What possible influence could we have on this committee which might result in positive changes to Bill 163, which would benefit northwestern Ontario as well as the rest of Ontario?

How could we have any effect upon these major changes in Ontario's planning law framework when the minister has announced that cabinet has adopted the policy statements which will not be changed and that the major change in subsection 3(5) from "have regard to" to "be consistent with" provincial policy statements is not open for discussion. I think that's a disgusting position for the minister to take.

In the face of the government's apparent non-negotiable position, Thunder Bay Home Builders' Association attends here today to appeal to the good sense of the standing committee's members. Please review carefully the well-thought-out and expressed position paper of OHBA. Please consider carefully why Ontario Hydro in subsection 62(2.1) shall "have regard to" provincial policy statements when everyone else must "be consistent with" them? Why is there an exception for Ontario Hydro? If this is good for Ontario, then it's good for Ontario Hydro also. Make it the same. Please do not be afraid to reject this key amendment to Bill 163.

You will find a built-in bias in the bill that public bodies are treated differently than other persons under various sections, and I've pointed them out, that are found in the bill. If developers come, there's one set of rules. We want to know what the position of the provincial bodies are, the ministries, but they don't have to submit their comments in the same time limits. They have different appeal procedures. Why is it different? If there's one rule for us, then make the provincial ministries and bodies comply with the same rules because we as developers have to get their positions before we know how we're going to go ahead.

What are more often than not delays caused by the failure of public bodies to perform their jobs in a timely fashion are the primary reasons for elongation of the process of seeking planning approvals and the ensuing increases and costs of such processes, both contrary to the professed purposes of the government to streamline the planning process.

Quite often, it will take a period of a week and many phone calls from Thunder Bay to reach the planner in Toronto through the voice mail system, to get his attention to ask him to get the file so that we can deal with the issues that are in the file. That's how frustrating it is. So let's make the rules the same for everybody.

Bill 163 requires public meetings for plans of subdivisions and any subsequent redline changes thereto. These are completely unnecessary and will both lengthen and escalate the costs of the planning process. The OHBA paper speaks to that.

I'm going to let Mr Manahan take over so that we can try to keep within the time limits.

Mr Don Manahan: Thank you, Mr Larson. The presentation that we brought to you today was intended to be in two parts. Mr Larson addressed the legislation and I'll narrow in very briefly on provincial policy statements.

As was suggested to you, it's our understanding that the various policy statements have been submitted to and adopted by cabinet and thus they probably offer very little opportunity for continued meaningful review and discussion. Notwithstanding this, the policy statements continue to be of significant importance in the overall exercise of what we wish to talk to you about today, that is, local planning. So we're going to spend a few minutes and comment on them.

Policy statements continue to be vague and amorphous, without a priority ranking and generally not in harmony with the conditions and with generally accepted thinking in northwestern Ontario. They represent situations applying to local participants, municipalities and planning boards, and not to all government ministries and agencies; not to Ontario Hydro, and Mr Larson touched on this.

Perhaps most important to the region, the policy statements are regressive and reclusive at a time when northern Ontario needs an outward-reaching vision to assist in dealing with an evolving global level of activity. In this region paper mills and mines are being closed and mills are being sold to their employees as an alternative to being closed. We need strong leadership. We need support. We need to showcase one of our strongest competitive advantages, the land in northwestern Ontario. In this respect the policy statements appear almost to apply to a different world. They do not help us. Further, it is of extreme concern that the concept of private ownership appears to be only a very minor component in the basis that underlies policy statements.

Of equal concern—of primary concern now that policies are in place—is, how will the policies be implemented? Our first hint comes from the legislative change that replaces the flexible and workable “have regard for” with the more rigid “be consistent with.” This does not promise flexibility or the desire to fashion policy to local situations.

It is understood that amendment to this section has been suggested, to have the clause read something like “be consistent with the spirit and intent.” If we must have this change, then such an amendment might be considered, but we would rather see the current “have regard for” concept continued as the basis for policy.

The second hint comes from the news release dated May 18, 1994, wherein the Minister of Municipal Affairs describes the planning system as now being one in which municipalities make development decisions—which we take to mean to administer and to implement—the province sets policy and the Ontario Municipal Board adjudicates disputes. This top-down approach is obviously consistent with the provincial line of thought, but it is not our concept of planning nor of a way to strengthen local autonomy. Nor is it the concept that we understood John Sewell to be discussing when he said that the province

should articulate and clarify provincial interests in the process.

Our concept of meaningful planning is a system wherein the community participates in comprehensive discussion and review and in a systematic decision-making process that develops and articulates a vision for that particular community and develops and articulates the policies and programs that are required to achieve at least a part of that vision.

1050

The minister's statement now describes the process. The province sets policy, and there is little meaningful space left for the community to be a real and legitimate participant at the policy level. So we get a 30-metre noise buffer at the highway entrance to Nakina, a community of 1,000 persons, 70 kilometres north of Geraldton and located on a railway; or we get noise contours based on Toronto airport conditions applied to the small community of Sioux Lookout. We get limitations on the distribution of land to family members who wish to stay and become a member of a small community.

We also get a continued concept that unorganized communities such as Rossport, Savant Lake, Upsala and many, many more, will cease to exist if they are continually discouraged. If you are ever unfortunate enough to be driving our highways in a winter storm, you will begin to see these places in a much different light; and while you are stopped there, you cannot help but see a different value system.

What we are saying to you is that there exist some very fundamental differences in the concepts and/or in the implementation of policy statements relative to the beliefs and the lifestyles in the northwest. Please do not take this wrong. We do agree that the local area should be involved in the actual administration of planning as well, should be the agents that make the planning decisions, but it is also important that those decisions are meaningful and they target a community vision and not the policies of others.

Our second way of seeking out an answer to how policy will be implemented is to look at past experience, and this is frightening. The province hopefully now has removed that thing called “growth and settlement” policy, for it had become an unbelievably convoluted document whose application threatened to shut down development in northwestern Ontario.

For example, a proposal for cottage development for lands identified for cottage development in a municipal official plan was rejected by Municipal Affairs on the ground that the cottages might become permanent and, as such, they would then violate growth and settlement. Under the same policy non-serviced initiatives for economic development, for example, a simple truck stop in a small community, that would bring much-needed employment and tax base have been seriously discouraged. The words are different in this policy but the thinking has not really changed, and we expect that in the end the application will probably likewise not change very much.

This same cottage development proposal brings us our first practical example of application of policy relating to

fish populations. Here an MNR official suggested that a particular watercourse may be critical to fish and wildlife, may support forage species such as pike and perch, may serve a nursery function, may support a waterfowl population. Based on these so-called facts, the ministry concluded that there would be irreversible and detrimental impact from a proposed cottage development of some 20 lots. They recommended denial. They did not suggest that we study, that we prove that the mayas did or did not exist; they recommended denial.

A second example of how policy has been applied in northwestern Ontario involves discussions concerning the content of official plans that are under revision. Ministry staff indicated that provincial law was about to be passed that would ensure a second unit as of right in any single dwelling unit and then proceeded to encourage the municipality to consider enacting policy providing for three and not two such units. The suggestion was even made that this possibly was ministry policy that was under active consideration. The policy moves, it evolves, it's never the same.

In short, implementation of existing policy has been a marvellous and never-ending series of surprises to us. I tell my clients that I don't know what to expect in the processing of their new application, except that I do know it won't be the same as last time. Perhaps if the various policies were to have specific and periodical points of review, such as the five-year term that is required by the act or official plans, we might see less of this.

It will be extremely interesting to see what is intended by the province in its reference to terms such as a "mix of uses" or "intensification" or "having a compact form," terms that are used frequently in the policy papers and either are not defined or are defined so that there is not a quantifiable component in the definition.

It will also be interesting to see what level of demand will be acceptable for justification of recreational developments on lands that are not within the settlement area of a municipality, or what is intended by the statement that the justifications should include the amount of suitable land available for the proposed type of development, and Mr Larson alluded to this.

There are a great many communities, small communities, isolated communities that want cottage development as a part of their economic program, and they're trying now to get that to happen. This is a small, innocuous statement. It's a part of a larger policy, just one particular sentence, I think, and yet it's going to stop that kind of local initiative in northern Ontario.

It is also of interest to small, isolated and unorganized communities to see what is intended by the policy that permanent residential will not be permitted where opportunities exist in nearby communities. So far it means that the province would like to see these communities disappear and see what they call housing pressures that exist as needing to be beaten back.

What does affordable housing mean to Terrace Bay, a community of a couple of thousand people, to Shuniah or Emo, or to Pickle Lake, to communities of several hundred people? The problem is a Toronto one and only

becomes an issue in the northwest when the planning process has to address a meaningless and inappropriate policy.

What we are attempting to bring to your attention is that the north is different. John Sewell saw this, and it caused him to talk about transfer of authority to enlarged planning boards and to discuss flexibility. The province does not appear to share the same view of the north and seems to see the need to be consistent across the whole of the province as more important than the need to make planning sense in northern Ontario.

To close on a more positive note, we encourage the province to take up the suggestion by John Sewell and to transfer powers to the north as soon as possible—to use their field offices until the proper planning board structure is in place. We need to have a local appreciation and an application of these general land use concepts that are said to be government policy. We also need to have local accessibility, which does not exist at this time and which is quickly becoming almost impossible with the introduction of automatic answering functions.

We would like to repeat the message that you have no doubt heard many times: take time and do it right. The policy statements are not yet right for the north and they certainly do not implement the stated objectives that are being espoused by the province. Thank you.

The Chair: Thank you. There are approximately four minutes left. What I would remind the members in their minute and a half is that they be brief with either their statements or their questions in order to get an answer within that time frame. Mr Grandmaitre.

Mr Alvin Curling (Scarborough North): I just wonder, Mr Chairman, one other point: We only have four presentations today. I wonder if we could be a bit more generous with time, maybe give us six or eight minutes for each caucus.

Mr Ron Eddy (Brant-Haldimand): I would move that—

The Chair: The Chair will give that flexibility where it seems appropriate.

Mr Bernard Grandmaitre (Ottawa East): The tone of your submission this morning is not a very enthusiastic one or one of hope. You seem to think it's a foregone conclusion that your appearance before the committee this morning—you really feel that your presence this morning is useless, that it's a foregone conclusion that Toronto has made up its mind and it won't change.

My question is about the regional office of the MMA. Can you tell me a little more about this regional office? Is it staff or is it the policies of the government that make it useless?

1100

Mr Manahan: I spent 10 years in the regional office in one of the many iterations, Treasury and Economics, I think, at the time. At the time I was there, and this was about 15 years ago, we had the minister's stamp and we approved plans of subdivision consents for the region. We were instrumental in discussions with the municipalities in official plans, either in the first instance or in amendments.

All of those functions are now in Toronto. The local office is well staffed, very capable people, and has a very strong advisory function. For the most part they tend to deal with municipalities, where we tend to deal with the client end, so we don't come into contact, but we do know them as professional planners in the few times we do run into them. They have a strong function right now that is advisory and they perform well at it.

Mr Grandmaître: But it's the policies that the government makes.

Mr Manahan: It's the policies. It's the fact that the statements come out of Toronto, the implementation comes out of Toronto.

Mr Anthony Perruzza (Downsview): Mr Chairman, on a point of order: There have been unbelievable pressures on this committee of people requesting to speak and address the committee. We have been very firm in the way we've allocated time to people throughout the process. If we bend the rules now, I would then propose that we bend the rules for all of those people who have been left out of the process in saying, let's extend the time and hear more people.

The Chair: I appreciate your point, Mr Perruzza.

Mr Perruzza: I think people know the time parameters. If Mr Eddy wants to move the motion to simply extend the hearings and allow more people throughout the process, that kind of thing, then that's something I would support.

Mr Grandmaître: We don't need a motion. We just carry on.

Mr Perruzza: So I think we need to have a clear sense from you on how we're going to proceed with this.

The Chair: The point is a good one. Just as a reminder to the members, we've heard a lot of critical opinions from a number of different people across Ontario and we did not extend the time. What I said I would do as the Chair is to allow some flexibility here and there, which has always meant 30 seconds or less. Just as a reminder to the members, we'll keep to that schedule, and I'm saying to you, please place your questions as quickly as you can so we can move on and keep to the agenda that we have before us. Mr Curling.

Mr Curling: So democratic.

Mr Perruzza: You haven't grandstanded until now.

Mr Curling: Now I get my time. That's so democratic.

I want to thank you for your presentation. What you are saying here is consistent to many, many people who have appeared before us. As a matter of fact, talking about how we treat the north, it cannot be the same, that the south will dictate policies.

I think the question I have, maybe not to you but directly to hear it from the parliamentary assistant, whether or not this policy that is chiselled in all this granite—I know he is quite a reasonable man—if he could tell us right now whether or not any kind of change to the policy could be forthcoming and be received with some sort of receptive way of changes.

Mr Curling: We're not going to extend our time?

The Chair: No, we're not. Mr Hayes, will you answer the question?

Mr Pat Hayes (Essex-Kent): Yes. I know the member who asked the question knows what the procedure is and he knows that the government does set—

Mr Curling: I don't know what the cabinet does.

Mr Hayes: Excuse me. He was in cabinet at one time and their government set some policies. What we do have with the policies, and I'm sure the members from the builders' association will realize, is an implementation advisory task force—your organization also has representation on that task force—to implement actually the guidelines and deal with the regulations. That is there and that is in place. There is input from many sectors all across this province. I think that we have—

Mr Curling: No policy change then is what I'm hearing.

Mr Hayes: I think it's very important for everyone to realize that you do set policies, and one of the big problems, Mr Chair—as a past municipal politician, one of my biggest complaints, and I know for many municipal politicians across the province and developers and others their biggest complaint was that the provincial government didn't have real good policies or guidelines, or they weren't consistent with some of their policies and guidelines, and made the job that much harder for development and planning in some of the municipalities.

Mr David Johnson (Don Mills): I appreciate your deputation very much. I'm just going to say in my few minutes that I share your concern that there's clear direction that the minister and the committee apparently have made up their collective minds that there aren't going to be changes to this. So I share your frustration in making a deputation today.

I think very definitely there should be changes, and I for one will certainly be supporting and I know my caucus members will be supporting that we change the phrase back to "have regard to" as opposed to "be consistent with," because it doesn't take a rocket scientist to understand that northern Ontario is different from Metropolitan Toronto.

I was a mayor in Metropolitan Toronto in the borough of East York for about 11 years and I know there are a certain set of conditions that we meet there, but it doesn't take a genius to understand that the kind of issues that are dealt with here in Thunder Bay and in the communities around Thunder Bay will be entirely different, and there needs to be local flexibility.

I don't know, for example, the business about having to have 30% affordable housing, and I think you've made that point. Does that make sense in some of the local communities here?

Mr Mike Cooper (Kitchener-Wilmot): Yes.

Mr David Johnson: You see, there is the reaction you're going to get from the government, yes. They're going to impose one set of policies right across Ontario. It just simply doesn't make any sense. I guess if we're stuck with this for the next year—

The Chair: Wind up, Mr Johnson, please.

Mr David Johnson: —then we will deal with it when the new government comes in. But my question to you then is what's wrong with having in this area houses on large lots on a septic system when there are environmental controls? What's wrong with having a house on a lake? I don't see the harm in that.

Mr Larson: The government policy at the moment is to force all new housing on to urban sewage systems and to fail to recognize that we live in northwestern Ontario because we like the spaces, because can have large lots and can live in harmony with nature. We're not trying to damage the environment, because we live with it. It's worse for us if we were trying to make postage-size lots and live on them and cause damage. That's not what we're doing.

1110

Ms Christel Haeck (St Catharines-Brock): I think what this bill shows and this whole process shows is that politics is the art of compromise. You have your position; obviously I have mine. But in fact there are a lot of people in my riding and, yes, they are in southern Ontario and in fact it's at the very tip of the province—it's St Catharines and Niagara-on-the-Lake—and other groups who've come before us who in fact want the term "be consistent with" replaced with the term "shall conform to."

They wish it even much stronger than you have indicated. They feel that environmental policies—and the Canadian Environment Law Association that presented to us yesterday made some very good comments with regard to this whole process and the compromises they feel that have been made in this particular bill, which they feel should be strengthened and firmed up to reflect the environmental needs across the province, not just in southern Ontario.

I think at this point, having made that remark, I know there are other people, I believe Mr Perruzza has a question for you, and I think Ms Harrington—

The Chair: No, there's not enough time for that.

Ms Haeck: I'm sorry. But if you wish to make a remark to that, feel free.

Ms Margaret H. Harrington (Niagara Falls): On a point of order, Mr Chair: We'd like to clarify that the housing policy statement on affordable housing does not apply to communities under 10,000. Is that correct, planners?

Mr Hayes: That is correct.

The Chair: Very well. Thanks very much. I'm going to get Mr Hayes to make some quick, clarifying remarks and perhaps some staff person wants to make a point, then we'll move on.

Mr Hayes: Yes. I just want to mention to the members here that I know there are more but there's an individual by the name of Michael Power from the Association of Municipalities of Ontario—I understand he's from Geraldton, Ontario—and we have another person, Jeff Celentano, who is from northern Ontario, who is also on the technical committee. So there is certainly representation from people from the north.

The one issue that you raised about other ministries

being consistent with, and they're exempt, which they have been, but that is an issue that has been raised several times with us and we are going to deal with that particular issue.

The other issue about meetings for plans of subdivisions, any subsequent redline changes, dealing with the redlines, that has been raised several times, and we're hoping we can deal with that.

For members to sit here and say there isn't going to be any changes, there will be changes. The opposition parties have the opportunity and the right to present amendments and the government will certainly be presenting amendments. We know that we'll be making some changes because we are listening.

I would also like to have Norma Forrest from the ministry clarify the policy on dealing with the cottages.

Ms Norma Forrest: Yes. Cottage lots are dealt with in two policies of goal B, policies 10 and 11.

Policy 10 deals with new cottage development proposals in organized municipalities, and it says that recreational and tourism development that's not an extension of a settlement area can be permitted if the type and scale of development is justified based on the demand for the development, not just in the municipality, but based on demand and the amount, provided that certain criteria are satisfied.

We're not saying you can't have cottage development. We just need to prove that there's a demand for that development and that it's not going to adversely affect the lake it's on.

Cottage development in unorganized municipalities is covered by policy 11 and that policy says that development's permitted if it's directly related to a resource and proximity to the resource is necessary, and certainly cottage development that needs to be on a lake would be covered by that policy.

What the policy does do, though, is make a distinction between that kind of recreational and tourism development and permanent residential development, which is covered in other sections of the policy, and much more stringent provisions are applied to those permanent residential developments.

So a municipality, based on past practice, can normally tell when there's a potential for conversion of seasonal residential development to permanent residential development, and what we're suggesting is that if there's that potential for conversion, of course, the policies regarding permanent residential development should be considered.

Mr Eddy: But there's always that potential.

The Chair: No, Mr Eddy, sorry.

Mr Eddy: There is a potential in any temporary—

The Chair: Mr Eddy, please. Do you have a quick comment in response to that? Very well. We just want to thank the Thunder Bay Home Builders' Association for coming this morning and communicating your concerns to this committee.

Just a reminder to the members, it's now 11:14. As the Chair, I won't let that happen again, so when I tell you there's this time limit, that's what you'll get. All right?

THUNDER BAY CHAMBER OF COMMERCE

The Chair: We invite the Thunder Bay Chamber of Commerce, Ms Dawn Powell. Welcome, Ms Powell.

Ms Dawn Powell: Good morning. On behalf of the Thunder Bay Chamber of Commerce, I'm very pleased to have the opportunity to make our presentation. The chamber of commerce's base is committee-driven and our government affairs committee has worked hard over the past few years in responding to the Sewell commission and to the policy statements and through this entire process, and in that light I'd like to make our presentation.

The Thunder Bay Chamber of Commerce is pleased that the government of Ontario is addressing the urgent need for planning reform. Procedural changes designed to decentralize the decision-making process are very important to ensure that development can occur within reasonable time periods and without adding costs to the process which simply get passed on to the consumer. The resolving of conflicts is as equally important in terms of time and cost.

We have had the opportunity to present our comments on two other occasions; however, our concerns have not changed, which would lead us to believe that perhaps our concerns haven't been addressed in the past. We do not believe that the proposed amendments will decentralize planning. The responsibility for planning decisions has been passed on to the municipalities; however, the authority remains in the hands of the province.

Since the policies are province-wide, locally based planning policy decisions, particularly important to northern Ontario, cannot be made. The initiative to deal with local issues has been taken away. The significant role of planning, whereby the structure and character of communities are determined, moves from the municipal level to the ministerial level. It is our understanding that these changes, the reforms, were intended to accelerate the approval process and eliminate abuses. Although strict time frames are to be adhered to, they appear unrealistic, particularly when you consider that our municipalities will be burdened with additional responsibility and cost when their time and resources are already at a breaking point.

The provisions restricting rural development do not reflect northwestern Ontario realities. There is abundant vacant land, often in unorganized areas, which is only suitable for residential or recreational development. There is a demand for this land which will increase the economic opportunities and allow people the freedom to choose the lifestyle which they wish to adopt. An urban lifestyle is not the only valid lifestyle.

We are pleased that environmental considerations will be incorporated into the planning process, but the wording of the policy statements is harsh. For example, goal 1.1 in policy A prohibits development which would negatively affect groundwater or surface water. We oppose all blanket prohibitions to developments, including this prohibition, and call for a planning policy that truly balances the various interests. A qualifying adjective such as "significantly" or "unduly" should be inserted before the word "negatively." Perhaps the policy will protect the groundwater at the expense of any economic

benefit to be derived from such developments.

Even then, this policy will be a major disincentive for small-scale development, where the added cost of demonstrating compliance, together with the delay and uncertainty, will be disproportionate to the size of many developments. Another useful amendment would be to limit this provision, and many others in the policy goals, to developments of significant size. It appears that a person wishing to pave a residential driveway, build a deck or landscape a yard will need a hydrological study prepared. This is not acceptable.

We believe the reforms to the system do not go far enough. We continue to look for major initiatives to reduce and eliminate red tape. Each successive reform introduces new requirements which will increase the cost and delay, now at the municipal level instead of the provincial level. The result may be less development, fewer economic opportunities, fewer jobs and that lack of initiative on behalf of developers to become involved in a system that will be more costly, complicated, and where the municipal decision-making process becomes politically governed.

Now is the time for bold initiatives. We are pleased to see that the municipalities will be able to adopt a development permit system. In our second submission we discussed the replacement of official plans with broad flexible-vision plans that would not lag the system down with time-consuming and expensive amendments. It appears that the provincially governed policies have become more restrictive and that local flexibility, adaptability and long-range-vision planning will take a step backward instead of forward. Planning reform requires a clear mandate to promote growth. Economic development is particularly essential in northern Ontario. Although the planning process inevitably manages growth, a more powerful endorsement of progress is needed.

Many of the reforms are positive, however, since planning is so vital to the economic stability of communities, particularly in the north. We hope that the final decisions are not made hastily, without considering the time, cost and economic implications that these reforms will have on all of us.

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Mr David Johnson: Thank you for making the deputation on behalf of the chamber of commerce. I think you've raised a number of very excellent points. My own suspicion is that when this was developed in the first place, the Sewell process from which this comes, it was largely developed in response to a very heated development industry in Metropolitan Toronto back in the 1980s and there were concerns at that point.

Well, that was light years away, that was an entirely different economic situation, and probably not in response to any particular conditions in the north but with regard to Metropolitan Toronto. So I think the vein is somewhat anti-development, it's very strong in terms of environmental controls, and I think that sort of approach has been carried right through to today.

That has implications, I suspect, for you here in Thunder Bay and with the chamber of commerce, because

the very things that you talk about in your presentation to us today—fewer economic opportunities, fewer jobs—are certainly going to have an impact on your community. It seems to me that the sense of this is intensification. The sense of this whole report is to promote intensification and to discourage larger lots, to discourage growth that we've been talking about, lake lots, for example, and that type of thing.

What kind of impact is that going to have on Thunder Bay, on the people you represent through the chamber of commerce, on the businesses in Thunder Bay, if this is implemented the way it is today without giving flexibility, without substituting, for example, "have regard to"? What do you see for the future economy here in Thunder Bay?

Ms Powell: You won't see the developers very anxious to proceed with large-scale subdivision developments like we've seen in the past. We need these developments in order to create the jobs. The construction industry—you've heard the construction association. The home builders speak to that. We need these jobs. We need this development in order to maintain the economy that's very fragile here. We're losing our resource base. We're turning to a service industry. We're looking for every opportunity we possibly can in order to create jobs.

When you see developers panicking and rushing to get the approval of subdivisions in place before this is going through, it should be a clear indication that there are some major concerns by our members, the chamber members, the business community, that this is going to negatively impact the growth of this community or any community of the north.

Mr David Johnson: You talk about environmental protection and you say that this is a good thing, and I'm sure we'd all agree it's a good thing, but you talk about the need for a balance. I concur 100% that there need to be two sides of the issue and you can't just say, because there's some negative impact, however large or small or significant or insignificant, that a project should be thwarted.

Should there not be some sense of being able to remedy? If there is a potential environmental impact, should there not somehow be the opportunity for that to be addressed, and if the situation can be remedied, then rather than have it etched in stone in here as a tool for those who would oppose a development to grab on to, should there not be an equal statement that the developer should be able to remedy any sort of environmental impact? And if that's so, then it should be able to proceed.

Ms Powell: It sounds all very well and good and it sounds like it means another piece of legislation or adding on to existing environmental legislation. I agree with the statement that there should be some flexibility for these developments, but it's got to be a balance. If it's so restrictive that it's going to deter any sort of development or economic growth, we'd like to see whatever suggestions, whatever policy statements will encourage it and still maintain the quality of our environment.

Mr David Johnson: All right. You didn't really mention it quite as specifically as the previous delegation,

but I presume you would support changing the words "must be consistent with" to "have regard to."

Ms Powell: Most definitely. We just feel it's very harsh. We don't feel there's any flexibility whatsoever in the wording as it stands.

Ms Haeck: I am very concerned with some of your remarks. On page 2 you refer to goal 1.1 and policy A. I would put to you, since you said you have been working with Mr Sewell, that you are probably as aware as I am that in his two-year review he found something like approximately one million septic systems existing in the province. There's no good, solid figure; it's assumed that it's around one million. In fact 60% to 80% of those aren't functioning properly and the kind of comments that you're making at the bottom of that second paragraph, the first full paragraph of your presentation, give me some cause for concern because you don't really address the need for preserving groundwater. In fact, you almost suggest, if I may be so bold, that development go ahead at any cost.

Ms Powell: That's not what it's saying. What we're opposing is anything that calls for the complete inability for development that will affect—the wording is "negatively affect," and that seems to be fairly strong. When we were dealing with the Sewell commission on the septic systems, we understand that there have been failings with septic systems throughout Ontario.

Ms Haeck: That's true.

Ms Powell: However, perhaps that's not a planning problem. Perhaps it's an enforcement problem and an education problem for those people who are installing and inspecting the system. You can't blame the planners for that.

What we're looking for is, like I said before, a balance between the environment, between our lifestyle, between economic growth. We have to oppose all-out prohibitions against these types of development. We have to sustain ourselves in the north. Like the speaker before us, we do not abuse the environment here, and it appears that by such strong restrictions, you're implying that we're doing something terrible up here in the north, when all we want to do is maintain our lifestyle.

Ms Haeck: Before I turn to Mr Perruzza, my riding is on water too. It's bounded by Lake Ontario and the Niagara River and the Welland Canal. I mean, there are an awful lot of septic systems there and you can say that there are all kinds of planning decisions that have been made many, many years ago, and there would be those who say you can't blame the planners. There we have some different views on that occasionally, but the fact of the matter is that those systems do break down.

The enforcement issue is one that obviously needs to be addressed. Education needs to be addressed. But I think some caution about putting systems into place that in fact can and do negatively affect the environment, especially when you're talking—my neighbour here represents an area that has had serious groundwater problems, serious water availability problems, and I think it's something that we have to take into consideration. I realize you have a lot of lakes up here, you have a lot of

water, but groundwater has been an issue across this province and I think we have to handle that with care.

The Chair: There's only about a minute and a half remaining.

Ms Powell: May I respond to that?

Mr Perruzza: I just wanted to have an opportunity to get a couple of comments—

The Chair: Hold on, Mr Perruzza, she wants to quickly respond to that.

1130

Ms Powell: I would like to respond to that. There are a lot of rural properties, lake properties that are dealing on septic systems right now, and I can assure you—I've gone through it personally myself in the past year—they make it very difficult.

The requirements to put in a septic system for a cottage or a rural property are very tight, and now that that process is in place, you're not going to see the systems that were being developed 20 years ago. There is a process in place, but what needs to be done is it has to be monitored and those people that are making the approval process have to be educated and educate the installers that are installing the systems. It can be done to control and protect the environment.

Mr Perruzza: I would like to make a really brief comment. Just in response to that, there was one particular case I think of one particular county where the works department person responsible for the administration of the county's sewer system had developed one plan essentially for the sewer system, and that sketch was in his head.

Do the planners out there know where the septs are? Not necessarily. So it's just not an educational problem in terms of enforcement and having enough inspectors out there to go and to take a look and to make sure that all of these things are done properly. That's not solely the case, so there are other elements and other problems related to that. My question to you is simply this.

The Chair: Could you ask it quickly, please, because there's not much time left.

Mr Perruzza: Mr Chairman, I'll ask it another time. I see Mr Curling is getting—

The Chair: Mr Eddy.

Mr Eddy: I think he should be given the time.

The Chair: Mr Eddy, please continue.

Mr Eddy: Yes, thank you very much. I agree with you completely. It's a matter of education, and don't forget the users of septic tanks, because they know when something is wrong and they know how to use it. So it's a very important point.

Interjection.

Mr Eddy: Well, no, it needs the education, right. I don't want to use up my time. It's been said about groundwater pollution and surface water pollution. I want to tell you, come to southern Ontario if you want to see groundwater pollution, and it isn't the septic tanks per se. What it is in many cases is the industries that we allow to do it. You've heard about Uniroyal at Elmira. That's a big problem in Waterloo.

Talk about the St Clair River where the major industries have drains directly into the St Clair River and when there's a spillage, it goes right into the river. Ask the natives on Walpole and Stag Islands about it. Ask the citizens of Wallaceburg what they're faced with at times, the Love Canal in the Niagara River and so many other things.

Ms Haeck: It's on the US side.

Mr Eddy: Yes, it is in that case, but a lot of it is in southern Ontario and we have allowed it, so now we're putting this on you. You may be surprised that many people who have come before us have said the same thing: Since the policies are province-wide, locally based planning decisions cannot be made. Many people are saying that, and it's not so much—I guess it is partly that the policy plans that we're faced with, the planning policies, are not debatable, they're not under review. They're forced, and they haven't had input from citizens in areas. I agree with you completely that we must have decentralization in the planning programs and we must have local input, and what's good for my municipality, which is a rural area in southern Ontario, is not necessarily the right thing for urban areas.

It's been said that we should stand back, now that we've had these hearings, or will be completing them shortly, and look at what we're going to get. There are the planning policies that are being imposed without input; the bill and amendments, and you don't know what those are; the regulations, and we don't know what they are; and then there are the implementation guidelines. Then there is the wording "be consistent with" and all of that. What is your opinion about that? I feel we have to tailor the planning programs more to the individual areas, and I'm sure that the leader of our party who happens to represent this area will be recognizing that and working towards that.

Ms Powell: I would like to respond and I think what the chamber of commerce would like to say is that there has been a lot of work done to the planning reform but there's a lot more work that has to be done, and it has to be done with consideration of everybody concerned here. We want input. We've been through this process several times and do not believe that our comments are being listened to.

We have valid comments, and I'm sure you're hearing them over and over again, yet they don't seem to be reflected in any of the policy or any of the work that's coming down. What may ultimately happen is that this planning reform will go through and we'll be sitting in front of a different commission in a few years' time reforming the reform planning policies.

Mr Curling: On many occasions inside your written report here and also when you speak you speak of the policy. On page 2 you talk about, "Goal 1.1 in policy A prohibits development which would negatively affect groundwater or surface water." On the next page you said, "It appears that the provincially governed policies have become more restrictive and that local flexibility, adaptability and long-range-vision planning will take a step backward instead of forward."

It would seem to me that you get the impression that

one of the main things with this legislation is the policy itself, that it is based on this policy, and I've asked this question many times: Do you feel that we have to go back and look at the policy again in order to be sensitive to the north? Most of the time the kind of situation of planning in the south is that we gear our planning towards increased population, and in the north it seems to be a declining population. Do you feel we should really address the policy again in order to be sensitive to the north?

Ms Powell: I think the entire process needs to be addressed again, but the policy seems to be the starting point from which this whole system will take place, and unless there are changes to the policy, then everything else will follow through. We've been through these policies and it becomes very apparent we're not very pleased that they'll address all our northern issues, and perhaps province-wide.

The Chair: Mr Hayes with a quick clarification and Ms Forrest with a point to make as well.

Mr Hayes: Just getting back to the consultation about public input, for people to say that we have not consulted or listened to people, we've had the Sewell report, two years of public meetings with 65 different stakeholders. There was a 90-day wrapup after the Sewell final report for people to respond back to it. We sent out 28,000 documents for people to review and comment on and we've also had 600 written responses, plus over and above that, this committee has been travelling across this province and listening to people. For people to say we haven't consulted, well, that is a lot of bunk. So, Norma Forrest?

Ms Powell: If I can respond—

Mr Hayes: I'm not saying that you said it, but there were some irresponsible statements from over here.

Ms Powell: —we're not saying you haven't consulted, but perhaps you haven't listened.

Ms Forrest: I'd like to talk about five different policy areas that you've raised and to show you how in fact in response to the consultation we have changed the policies to reflect some of the things we've heard.

The first policy relates to what are quality and quantity, and you indicated in your submission that policy 1.1 would not permit development that would negatively impact on water quality and quantity. In fact, what the policy says is that water quality and quantity should be protected, which is really reflecting the way the Environmental Protection Act and Ontario Water Resources Act, existing pieces of legislation, are administered.

The only cases where negative impacts are looked at are in cases where water quality and quantity have been prejudiced to the extent that the Minister of Environment and Energy would identify that that's a sensitive area. That's the only case where negative impacts have to be looked at, where it's really close to some line where any further development could have a really bad effect on water quality and quantity. Even in that case we're not saying no development, we're saying only development that wouldn't further diminish that water quality beyond acceptable levels.

That's a clarification in the policy and that clarification was made in response to the consultation, because the first policy said development will not be permitted if water quality and quantity are adversely affected. So that's one big change in the policy.

The Chair: Ms Forrest, I'm worried that if you have five, it's going to take some time.

Ms Forrest: I'll hurry.

The Chair: You're doing very well, of course, but—

Mr Eddy: It's the interpretation also.

Mr Perruzza: Listen up and learn something.

The Chair: Ms Forrest, please continue. That's fine.

Ms Forrest: I'll be fast. I'd like to talk to you about what the policies do about economic development, because I think that's a really valid point. The policies talk about each municipality developing an economic development strategy and implementing that through land use planning. I think that's really important for the north where single-resource-agent towns have been a problem. They're encouraging the kind of approach that was done in Sudbury as an example.

1140

The policies of goal F protect a lot of the resources that are the basis for the economy in northern Ontario, the minerals and petroleum industries and the mineral aggregates. Also the policies in goal A protect the other things that are a fundamental basis for the recreation and resource industries in northern Ontario: water quality, forestry—forestry is not negatively affected by these policies, but forests are also protected.

The next issue I'd like to talk about is private services, because that's something you talked about. The policies don't say no development on private services; they say development on private services where you've looked at long-term impacts and have assessed them to be acceptable. That's to avoid situations where public money has to be spent going in after the fact and putting in full municipal services to correct existing problems, because that's a very expensive solution.

The next thing I'd like to talk about is the fact that implementation guidelines are being developed for all these policies in consultation with the task force. It has got representatives from a lot of different groups as was mentioned earlier.

The next thing is that northern issues have been addressed in some cases in the policies by making specific policies applicable to northern Ontario. The wetlands is an example where a specific evaluation criterion has been developed for northern Ontario. Policies for woodlands are different for northern Ontario than for the south. Significant woodlands are not necessarily precluded from development.

In a hurry, those are my points.

Ms Powell: I would like to thank you for the clarification on some of these items. It clearly demonstrates that there's a problem with how the interpretation and how the policy is written and that maybe additional work has to be done. I'm hearing over and over from our chamber members the same comments and they've interpreted the

same way that we've made the presentation, so there is a problem there. Until that's clear, we're going to end up with further problems down the road.

The Chair: We thank you for coming and for participating in these hearings.

THUNDER BAY FIELD NATURALISTS

The Chair: We invite Thunder Bay Field Naturalists. Welcome to the committee.

Dr Myra McCormick: Thank you. My name is Myra McCormick. I'm a past president of the Thunder Bay Field Naturalists. My comments are going to be very brief and quite general. I have no written submission. I think we're more concerned about what we don't find here than what is there.

Sustainable development is becoming a catchword. I was impressed by Hamilton. They have basically got three legs to their stool: economic, which the chamber of commerce has been addressing; environmental, which we are of course very concerned with; and social, what the people who live in the community feel about it, how they see it.

There's very little in this act that I can see the way it's written that lets the people in the community participate unless they're willing to take time off work or unless they're educated enough to write a brief. Very few people are willing to put pen to paper, and in our economic climate at the moment very few working people would dare take the time off from work.

I can see nothing in this act about containment of urban sprawl. You may think we don't have a problem, but we have approximately 115,000 people and the city limits cover an area larger than the island of Grenada. If that isn't sprawl, I don't know what is.

The sections on the protection of the environment were very brief, very weak. There was no mention of watershed planning and, as you should know in southern Ontario, what your neighbour upstream does is going to affect you and it may affect you very badly if you don't get together before the fact.

I see nothing here about building on floodplains. Maybe this is part of another act, but I have seen what has happened in southern Ontario, where floodplain building is allowed, and I've seen what's happened in Thunder Bay when it's allowed. Mind you, the building went on long before people were planning cities, but we've had to build a very large diversion because people don't like their basements flooded and they don't like their garages swept away. We have difficulties here with watershed planning. Our conservation authority has no authority over any of the headwaters of any of the rivers that run into Thunder Bay. It's crown land and there's logging, and you know what happens when you deforest the upper reaches of watersheds.

There was no mention here of the specific content of any official plan or that the municipality even had to consider alternative plans, and there are usually other ways of doing things. Sometimes they're more expensive in the short term, but sometimes the cheap solution in the short term turns out to be much more expensive in the long term.

We're concerned here that only the Ministry of Municipal Affairs is bound by the act. I would agree that having to run plans through 18 ministries can be ridiculous, time consuming and cut off anything you want to do, but the way I read what's here is that only the Ministry of Municipal Affairs has input into this planning and that there's no input by anybody like the MNR or other environmental ministries.

I would agree that streamlining the process is very necessary. We have a case in point here, where some development is being held up by the municipal board, presumably because of the way the process is set up at the moment, and a number of people are going to lose their jobs because the building has not yet started. Some people would have lost their jobs anyway, as this company is downsizing, but there are going to be a number of people out of work because there is actually no building there because it's been held up by the process that they have to go through at the Ontario Municipal Board.

Another concern is these restrictions on the right of appeal. It reads as if you have to have your protests in place before the decision is made. Sometimes you don't know what the plan is going to be and it's very difficult to protest before you know what you're protesting.

We have minor variances here. There's no definition. Is there a definition in some other act? What's minor?

There's also a concern of the Lieutenant Governor in Council by regulation establishing a development permit system. I read it with all the exceptions that at any time the Lieutenant Governor could establish a regulation to allow any municipality to do anything it felt necessary.

1150

The local chamber of commerce, I hear, has been complaining about the restrictions on development. I have never yet heard of a municipality given free rein that would actually tighten up restrictions, because tightening restrictions usually costs time and money in the short term. I read some of these press releases and the thrust seems to be to get as many jobs as soon as possible rather than the long-term planning.

I don't think I have any other general comments at the moment. If I can answer any questions—

The Chair: I'll tell you what: We'll do that. Thank you very much. Five minutes per caucus.

Mr Perruzza: I just want to address the whole issue of urban form, which the previous speaker had talked about and which was picked up again by Ms McCormick, and how urban form is permitted to happen here in Thunder Bay. It's not necessarily a bad thing to try to encourage compact urban form, because I believe that while the chamber of commerce is interested in the economic security of its own membership, very often they have very little regard for the security of the sort of public institutions stakeholders, which is the public. Obviously, by encouraging sort of sprawling urban form, the public, by and large, has to pick up the costs of that. Roads and sewers spreading over large areas have to be paid for by someone.

Mr Eddy: Like the city of London, 64,000 acres.

Mr Perruzza: My question to you—if Mr Eddy will permit me to ask the question—often the knee-jerk reaction by many of the chambers of commerce is, “Yeah, allow our membership to be able to do whatever we want,” but then they say, “But Jeez, don’t raise the taxes, because now we have a big problem,” and you say, “But how are we going to pay for all of this stuff that you’re asking on one hand and saying you don’t want on the other?” My question to you is, could the members of the chamber of commerce continue to make money while a compact urban form is encouraged, in your view?

Dr McCormick: I should think in some ways it would be easier to make money, but I’m a physician, not an accountant, not a businessman. I don’t see why travelling long distances to get to businesses is a good thing. This city is enormous. There are continuous complaints about the bus service and because public transportation is not very good, everybody drives a car and then everybody complains about the parking, then the city has to build very expensive parking lots and everybody complains about paying to park.

We’re a small town; we’re actually an amalgamation of two small towns. We’ve got businesses moving out of the core into malls and then the malls are half empty because businesses can’t afford the rent. I really don’t understand business very well. I look at all these malls and I say, “Where are all the businesses?” A friend of mine who teaches in university in Victoria says: “They just move from mall to mall. That’s what they do.”

Mr Perruzza: I’ll give you one example of something that we have happening in Metro—

The Chair: You don’t have much time. There are about two minutes and a half.

Mr Perruzza: Just very quickly to pick up also on something that Mr Johnson talked about earlier and Metro council, we have one sewer line in Metro that has combined sewage systems. Metro council doesn’t know and can’t accurately monitor how much untreated raw sewage is actually going into the lake. Their guesstimate based on computer simulations is something around 70,000 cubic metres of untreated raw sewage from one sewer line. It would take close to \$600 million to correct that little problem. What does that cost for people? I’ll end on that.

Ms Haec: I think you’ve raised some very good points, and one of the things that you raised, and I wrote down your words, you said that often it’s difficult in fact for residents or activist groups to come forward and raise an objection because they don’t know what the plan is going to be.

We’ve had that happen in our neck of the woods where a simple town house project has evolved into something that it was at one point up to 130-some-odd units, down to 106 now, on the floodplain, and this is currently happening. This is not even with this legislation, but it’s something that is currently being dealt with at the OMB.

Mr Dale Martin has proposed—he has been acting as the provincial facilitator—he has been advocating something called the complete application, so that the various

commenting agencies and the residents have an idea of what the site is going to look like. Everybody knows what it is, and it’s obviously an evolutionary thing. But before in fact it goes through those final approvals, the neighbours know. You have a chance to make your comments. Would you in fact support that kind of a process?

Dr McCormick: I think it’s necessary.

Mr Curling: Thank you for your presentation. I would agree with you in some of the comments that you made, especially in the sense that minor variances have not been defined properly and it has been causing a considerable amount of problems and people have expressed those kinds of concerns.

I also would totally agree with you that the lack of regulation leaves us little in order to understand what the direction is and where this government is going to go with this ill-defined legislation or coming from a base of a policy that many, many people have expressed they did not agree with, starting from a wrong base.

I would also say to you and agree with the parliamentary assistant that Mr Sewell has done a very good job going around in consultation. Whether we agree with it or not, the breakdown came and the government interpreted it in this kind of legislation. I know also that you know that there are 10 million people in this province, over 831 different municipalities, of which about 70% of those municipalities have less than 5,000 people within them.

The fear of people coming to a city, especially in the north, is not one of the fears at all that is in fact about the north. So I think that a chamber and people like that who are strategically looking at how we deal with—I don’t want to call it the critical mass, but the mass—is very important and profit is not a bad word at all. That’s why we are all here today, because of investment.

I’m not quite sure—maybe you are quite familiar with it—are you familiar with this document, Looking Ahead: A Wild Life Strategy for Ontario, which the Ministry of Natural Resources has funded and brought about? What I am saying is it seems to me the government has made a tremendous amount of effort—and I could not and would not fault the government for not listening to the environmentalists and having some part being placed in this legislation or so. Do you feel that there is still more that should be done by the government to listen to the environmentalists and the naturalists to put this in the legislation?

Dr McCormick: Oh, I’m afraid we always think that. Every group thinks that, but—how can I phrase it? We’ve certainly found in the past that municipal planning tends to go through the short-term, relatively cheap solution that has not turned out to be so cheap in the long term.

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All you have to do is look at the McIntyre River, which is a few blocks over that way. The Thunder Bay Field Naturalists were consulted many years ago, and we said—I was not a member at that time; I didn’t even live in Thunder Bay at that time—they said, “Don’t cut down the trees.” The city, the conservation authority, whoever,

cut down the trees, planted grass and said, "Oh, the banks are washing away." People had built very high priced houses on either side with a road on either side of the river, and they had to do something, so we now have a large stretch of the river where the banks have been paved. You can't tell me the upkeep on that is cheap.

Mr Curling: But I didn't ask the other part of the question.

Dr McCormick: It provides jobs, mind you.

Mr Curling: Could I ask the other part of the question? What I did ask was if the environmentalists and naturalists had input into this legislation and policy, and I think the other part is the economic and the social aspect of it. Do you think that enough has been heard and reflected in the policy, not in the Sewell report but in the policy, on the legislation? Forget the regulation; that will come anyhow. But do you think that enough has been put in here to reflect that other aspect of it, the things that the Ontario home builders are saying, the things that are said by the chamber of commerce?

Dr McCormick: You mean in Bill 163? I don't think there's enough on the environment there.

Mr Curling: No, no. I'm talking about the economic and the social part, not the environment.

Dr McCormick: Economic, probably. Social, I think there's still room to ease in local input and to get the people in the city on side with the plans. Most of these plans come down and everybody says: "Oh my God, how did that ever get through? We don't like it, but it has passed and we're stuck with it."

Mind you, you have to educate the people in the community, but you also have to facilitate their input somehow. It's possible; it's time consuming. Most politicians on city council or otherwise have more than enough to do without having to go out and educate their constituents as to what's going on. It's not a problem with an easy solution. But if you want to bring in something that's controversial, you have to get the population to buy in, to see why you're going to spend money now to alleviate a problem later.

Nobody wants their taxes up. I'm a home owner and I don't want my taxes up. But on the other hand, I might be willing to pay more taxes if I can see things like recycling systems and so on. Our city council turned it down because they were afraid it might cost them money, so we have no recycling in Thunder Bay at the moment. We did have paper recycling, but that seems to have gone by the board again.

Maybe we're not doing enough to educate our city councils, but it concerns me when so much is left to the local government, that if they're not environmentally aware, socially aware and they go strictly for the economic thing, we can find ourselves in bad trouble down the line.

Mr David Johnson: Just carrying along on that theme, Dr McCormick, I thank you for your presentation and your presence here today. I wanted to talk about the local autonomy, because it seems that one of the main issues that's coming up here today is should various councils, city councils, particularly in different parts of

Ontario, have some flexibility or should they be put in a provincial straitjacket? Now there are people who would interpret this differently, but certainly we've heard that kind of deputation here today, that northern Ontario, for example, is different, shouldn't be hamstrung with the same definite policies, for example, that would be implemented in Toronto.

Personally I think that a city such as Thunder Bay needs to have flexibility to deal with local situations, needs to be able to deal with local citizens such as yourself, such as your group, to look at different circumstances that are in place here in Thunder Bay. Certainly Thunder Bay is a whole lot different than Toronto. Shouldn't a local city have that kind of flexibility to be able to work with you and other people here and develop your own made-in-Thunder Bay kind of planning process?

Dr McCormick: Well, I think every municipality has that right, but what I would like to see is a strong set of principles that shouldn't be broached and that the municipality should have to say, "Okay, we'll find our own solution to living with those principles." I don't think that Thunder Bay should negatively affect ground and surface water to sustain development. I mean, we have as much right to clean water as Toronto does. But they should be allowed to find their own solution to developing and still not destroying the water.

Mr David Johnson: Thunder Bay is up next, and I'm quite sure if they have the time, they'll say they don't want to destroy the water either. But they probably would say that to remedy possible environmental conditions may take different approaches here in Thunder Bay, given a different water situation, than it would in Niagara Falls or than it would in Metropolitan Toronto.

Dr McCormick: Well, we have quite a different water situation here. We get our water from a number of different sources. The south end gets it from Loch Lomond. There has been considerable concern from pollution in Loch Lomond because the planes going into the airport overfly it. We get our water in the north end from Lake Superior. You'd kind of like to know where the sewage was going.

One of the previous MOHs was a friend of mine, and I was in her kitchen on a Saturday morning when she turned the tap on and got a small fish—a well-chlorinated fish, mind you, but a small fish—and she said, "I will take it to my next meeting, because I have been saying we need finer filters on our water intake."

We don't depend here on our rivers so much, but the fishermen who used to fish there as children are complaining because the waters within the city limits don't sustain the same fish they used to. They used to be able to go out in their back yard and catch fish and there aren't any there now.

Mr David Johnson: Dr McCormick, can I talk to you about jobs? You've mentioned that a couple of times. From my experience in the past actually, the city of Thunder Bay is somewhat renowned for its economic development policies and planning in general. I thought that Thunder Bay was doing an excellent job, although you seem to indicate perhaps not so. I'd just like your

comments. It seems to me in any city there needs to be a balance» The environment has to be protected, but there have to be perhaps remedies to do that. But at the same time it's important for people to have jobs, because that affects our whole wellbeing.

Dr McCormick: Oh, yes.

Mr David Johnson: Isn't there a situation where we can balance that off? I think the chamber of commerce is saying the same thing. Yes, we can protect the environment, but we can remedy environmental problems that may come up with regard to water or air pollution or land pollution or any pollution you name. But we need to concern ourselves with jobs as well as the environment.

Dr McCormick: This is always the problem, and it's one of the three major things in any community. If you don't have an economic base, you don't have a community, but if you don't have a good environment and if you don't have a pleasant social structure, that's not a very good community.

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Thunder Bay being in the north here, we had major problems with our economic base, but you don't really want to have economic development at the price of sacrificing the environment either. You're right, there has to be a balance and we're going to have to find some very innovative solutions up here.

Unfortunately, each group tends to get mired in its own interests. People see economic base at all cost and we, with an interest in the environment, don't particularly want to see that, but we do realize people have to have jobs. We'd just like to see the balance, and we'd like to see the balance a little further in our direction. We'd like our third of the territory, not a little bit on the fringes, as protesters that are considered a little peculiar, worried about things that aren't really important. But they are. We all live here, we all breathe the air and drink the water.

The Chair: Dr McCormick, we're running out of time and I thank you. Ms Forrest has some comments.

Ms Forrest: I'd just like draw your attention to the comprehensive set of policy statements that were part of the planning reform package. These policy statements have been adopted by cabinet and will come into effect at some date in the future when Bill 163 would be proclaimed.

These policies deal with those three legs of the stool that you were talking about. They deal with social considerations and, for the first time, social considerations are to form a part of the land use planning process. They deal with environmental concerns. The floodplain planning policy has been summarized and included here. There are policies regarding wetlands, regarding contaminated sites, regarding energy-efficient development, regarding urban sprawl. All the things that you've talked about are covered in this document.

I think that your comments about watershed planning are well founded. Watershed planning may be one of the ways that municipalities may choose to take to make sure that they're looking at all the things that we're covering off in this set of policy statements.

Regarding the role of the Minister of Municipal Affairs

in the land use planning process, the Ministry of Municipal Affairs will be approving the official plans of all the upper-tier municipalities and certain lower-tier municipalities in the meantime, and as part of that process will certainly be consulting with all the other ministries, the Minister of Natural Resources and the Ministry of Environment and Energy.

All of the ministries that have a role in the land use planning process will continue to have that role, except that through the planning reform process we hope that that role will be much more of a policy development role rather than commenting on individual applications at the end of the process. I think you'll be happy with this set of policy statements and the fact that a lot of your concerns have been addressed in that set.

Mr Eddy: But the major one is the headwaters of the rivers that flow into Thunder Bay.

Interjection.

Mr Eddy: No, it's left out. It's not part of the—

The Chair: Mr Eddy, can I ask you, when—

Mr Eddy: —headwaters of the river—

The Chair: Mr Eddy, you're doing this again. It's a problem. What we'll do as we go along is, we'll give you the opportunity to make those remarks so that we don't extend the discussion as we do that.

Mr Perruzza: Can we request—

The Chair: Mr Perruzza, hold on. Dr McCormick, we thank you for the personal interest you've taken in responding to this bill. Thank you for coming today.

Dr McCormick: Thank you for listening.

Mr Eddy: Good points you've made.

CITY OF THUNDER BAY

The Chair: City of Thunder Bay, Alderman J. D. Polhill and Ms Jennifer Favron.

Mrs Jennifer Favron: My name is Jennifer Favron. I'm the general manager of the city of Thunder Bay planning and building department, and with me is Alderman J. D. Polhill, the chairman of the city's planning committee.

We are appearing before the committee today to express the city's concerns with respect to the Planning Act amendments set out in part III of Bill 163. We also wish to express our concern with the consultation process being utilized to give municipalities and other stakeholders an opportunity to express their views on the proposed legislation.

The city is particularly concerned that the proposed legislation in its present form and the accompanying policy statements will result in a land use planning system which is more difficult, more complex and more complicated than the system it is intended to reform.

Because the province has not released a draft of the regulations to be prescribed under this legislation, it is difficult to assess the full impact and implications of this legislation.

It is suggested that the proposed legislation will give municipalities greater local control over the development process. However, this control will be exercised within

the very tight framework established by the province. The province has released a comprehensive set of policy statements and the proposed legislation requires that municipal decisions be consistent with these policies.

In this regard, the city is vitally concerned with the process which will be followed when issuing future policy statements. Municipalities and the public must be given adequate information and time to assess the effect of proposed policy statements and an opportunity to influence the content and implementation of such policy statements. The implementation guidelines must be developed before these policy statements are brought into effect.

Under the proposed legislation, municipalities must prepare an official plan which contains certain prescribed information, and the province suggests that "Once these plans are in place, municipalities will have the power to approve development without further approval from the provincial government."

Under the current legislation and the authority which has been delegated to the city of Thunder Bay, further provincial approvals are not required for planning applications which conform to the official plan. Under the proposed legislation, the province retains the power to approve official plan amendments and several new steps are added to the process to be followed when amending an official plan. The legislation makes no provision for future delegation of approval authority for official plan amendments to municipalities, even where such amendments are consistent with provincial policies.

As stated by the province, the proposed amendments to the Planning Act provide a comprehensive and regulatory framework for integrating environmental concerns in land use planning. The requirement for municipal decisions to be consistent with these policy statements provides a strong mechanism for implementing these policies.

Although the province is suggesting that there will be a level of flexibility to allow for local considerations, such flexibility has not been demonstrated in the application of current provincial policies in the city of Thunder Bay. Municipalities will be compelled to support and implement these policies, whether they agree with them or not.

The province suggests that there must be local control over planning in Ontario. It is further suggested that planning is a partnership between municipalities and the province. The development and processing of this legislation does not support this concept; nor does it recognize that Ontario municipalities have the capabilities and strengths to plan well. It also does not support the stated belief that planning the development of Ontario cities, towns and rural areas can best be accomplished by the people who live there.

As indicated earlier, the proposed changes to the legislation, while claiming to streamline the process, in many instances will in fact increase the amount of time required to process development applications. Of particular concern are the changes made to the process which must be followed when reviewing plans of subdivision or condominium.

The Ministry of Municipal Affairs delegated the approval of such plans to the city of Thunder Bay on January 4, 1994. The city will continue to have the authority to approve plans, but Bill 163 proposes additional requirements to notify persons or agencies that may be affected by the approval of a plan and to provide information to those persons and public bodies specified in the regulations.

In addition, in some instances there will be a requirement to hold a public meeting at least 30 days before a decision is made on the plan. The proposed legislation would require the city to give notice of the decision on the plan to any person or agency who asked for notice or who submitted written comments during the circulation of the plan. In addition, notification of the decision will have to be given to any other person or agency outlined in the regulations.

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The new legislation would allow an appeal to the Ontario Municipal Board by any person or public body who is given notice of the decision. Any such person or agency would be allowed 30 days to submit an appeal on any decision made by council on a subdivision or condominium application or with respect to any condition to an approval of such an application.

Where a condition is changed following draft plan approval, and this is quite common, notification of this change must be given again. The same persons or public bodies once again have 30 days to appeal to the Ontario Municipal Board. This proposed change to the legislation is particularly critical. Draft plan approval is normally given to a plan before the final survey of the lots has been completed. In many instances, when the final plan is submitted for approval, minor changes are required to reflect the actual dimensions of the lots.

The subdivision approval procedures adopted by the city allow minor revisions to the draft plan approval to be made by staff so that final approval can be issued quickly. It is not known whether the new procedures will permit this. Considerable time will be lost if the city must now circulate notice of such minor revisions and wait for a 30-day appeal period to expire.

The existing legislation allows the applicant to appeal any condition imposed on the approval of a plan to the Ontario Municipal Board. Such an appeal can be lodged at any time before final plan approval is given. In addition to this right of appeal, the new legislation will now allow any public body to appeal at any time until the plan has been given final approval.

In addition to the above, the regulations will likely require the submission of environmental impact statements for certain types of plans. It is not clear which public body will have the responsibility of reviewing these documents.

Due to the increased requirements for giving notice of proposed plans, the expanded rights of appeal, the requirement to be consistent with additional provincial policies and the requirements to meet tougher environmental standards, it is expected that the plan approval process will take longer to complete.

The notion that disputes over what is appropriate land use will occur at the policy development stages rather than over development approvals is not supported by the increased requirements for giving notice when processing development approvals.

The processing time for minor variances and consent applications is also increased under the proposed legislation. Although the Sewell commission recommended that the appeal period for minor variances be reduced to 14 days, Bill 163 increases the appeal period to a maximum of 45 days. In addition, the legislation now requires additional notice to be given on consent applications.

Where the current legislation makes concurrent processing of minor variance and consent applications quite easy, the changes to the legislation will make concurrent processing difficult to achieve. Not only are the notice provisions different, appeals on minor variance applications are now heard by the municipal council while appeals on consent applications are heard by the Ontario Municipal Board. The procedural requirements to be followed by a municipal council when reviewing a committee of adjustment decision are not clearly set out in the legislation or the supporting documentation.

One of the positive changes to the act is allowing the municipal board to dismiss an appeal without a hearing where the applicant did not make an oral or written submission to council before the decision was made. This provision is included in all of the processes which include the right to appeal to the board, with the exception of section 34 of the act related to zoning bylaws. Was this deliberately excluded or is it simply an oversight in the legislation?

It is suggested that the planning process will be streamlined for establishing time frames for making certain decisions, after which the matter can be appealed to the Ontario Municipal Board. Given the increased requirements for notice and additional opportunities to object to or appeal a planning decision, it is not clear how the OMB backlog will be eliminated to ensure timely scheduling of matters before the board. It remains to be seen if the OMB will exercise its authority to dismiss appeals where land use planning issues are not identified or the appeal is thought to be frivolous.

One thing that is overlooked in the whole idea of streamlining the planning approval process is that not all development requires planning approval. In fact the majority of development proposals conform to the regulations in effect and a building permit can be obtained without further planning approval. In the city of Thunder Bay an average of 1,400 building permits are issued in a year. Approximately 60 applications for amendments to the zoning bylaw and 100 applications for minor variances are processed in the same time frame, and not all of these amendments are required to permit new development.

With the increased requirements to be consistent with provincial policies and for integrating environmental concerns in the planning process, it is likely that more development proposals will be subject to planning approvals under the proposed legislation. Because the province will stipulate mandatory contents for an official plan,

these documents will become more rigid in their application and will likely require the processing of more site-specific amendments with the requirement for provincial approval.

The amendments to the Planning Act as contained in Bill 163 will not result in a planning process which is more timely. Many of the procedural changes will result in a process which is more complex and certainly more costly for the applicant and the municipality. The changes to the legislation will increase the workload for municipal staff and council and represent a further downloading of responsibility by the province. While the city may have more responsibility in the planning process, the province will retain significant controls over local planning decisions.

It is our opinion that the government is proceeding too quickly with the implementation of these planning reforms. Without an opportunity to review the regulations which will accompany this legislation, municipalities are unable to determine the full impact of the proposed legislation on the processing of planning applications. Although the province is seeking input with respect to this proposed legislation, the fact that the city of Thunder Bay was not formally advised of the standing committee hearing is indicative of the government's intention to have this legislation in effect early in the new year, regardless of the concerns of municipal councils and others involved in the land use planning process.

The year 1994 has been a very difficult year for most municipalities. With the implementation of the social contract, municipalities have been hard pressed to maintain service levels while reorganizing and re-engineering to achieve the permanent savings required to operate after the social contract ends. Many municipalities will have found it difficult to find the time required to review Bill 163, the proposed policy statements and their implications in the very short time frame provided, particularly during the summer months.

The city of Thunder Bay is asking the committee to recommend an extension to the consultation period to provide an opportunity to review and comment on the proposed regulations before the legislation comes into effect.

The city of Thunder Bay is also asking the committee to ensure that municipalities and all of the stakeholders, including the province, are given adequate time to review the implications of this legislation and develop appropriate and workable implementation strategies before it comes into effect.

Finally, we wish to express our appreciation to the committee for entertaining our thirty-hour request to make this presentation. We also wish to thank you for making the trip to Thunder Bay to hear some of the concerns of this region. We can only hope that the concerns that you have heard here today will be addressed before Bill 163 is proclaimed.

Mr J.D. Polhill: Mr Chairman, I have one or two comments to make if you will allow me, sir. I've been chairman of planning for longer than I'd like to remember, but through the years we have in our process of restructuring and whatever that we have done to make

our department more efficient got to a point now where the developers are quite pleased with Mrs Favron's handling of the department. We have very, very few complaints and the fear of city council at this time is that legislation that you're bringing forth will quite possibly foul up the whole process that we have worked on so diligently. We only have four months of construction up here and we have to push things through pretty quickly.

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The Chair: M. Grandmaître, four minutes.

Mr Grandmaître: I'm sure that you're familiar with the Comprehensive Set of Policy Statements.

Mrs Favron: Indeed we are.

Mr Grandmaître: I hope that you were present when staff quoted goal B, economic, community development and infrastructure policies: "To manage growth and change to foster communities that are socially, economically, environmentally, and culturally healthy, and that make efficient use of land, new and existing infrastructure, and public services and facilities."

Do you think that Bill 163 responds to all of these great qualifications?

Mrs Favron: What I would have to say at this point, we had reviewed the provincial policies in the original circulation. The city of Thunder Bay submitted their comments to the ministry. I think some of the goals are quite laudable and we're not necessarily opposed to the overriding concern for the environment. Perhaps the tone in my presentation was suggesting that we're not concerned with the environment at all. I think what we really want to say is, we are already taking into account those environmental considerations in the process we're following today. But, no, I don't think in the case of the city of Thunder Bay, and probably to a greater degree in some of the outlying rural municipalities, that the spirit of this legislation is going to improve our opportunities for economic development.

Mr Grandmaître: In the last couple of weeks that we've been on the road, very few municipalities, or maybe one or two, that we've spoken to do agree with the objectives of the government but they don't think that Bill 163 is the answer.

My second question is about appeals, minor variances appealed to the OMB. Do you agree that minor variances shouldn't be appealed to the OMB or shouldn't make appeals to the OMB?

Mrs Favron: If minor variances and the committee of adjustment are operating within the spirit of the legislation as it exists, I think the function of a committee of adjustment is important. A zoning bylaw is a very inflexible document and there are always going to be exceptions to the rule which make the minor variance process reasonable. Councils cannot deal with all of those decisions, but what this legislation is really setting up is effectively making council the committee of adjustment and their decision is final. Again, it simply is going to compound the workload of council in order to deal with planning issues.

Mr Polhill: I'd like to just add one thing to that. If you realize that council does oversee the goings-on of the

committee of adjustment—in fact our council has taken the committee of adjustment to the municipal board and reversed their decision. So we ride pretty sound herd over all our departments.

Mr Grandmaître: You've had 100 applications for minor variances. How many were appealed to the OMB? Very few?

Mrs Favron: Very few. Two or three perhaps.

Mr David Johnson: I'd like to thank you as well for your deputation today. It's interesting that one of the first points you made is that in some cases—in many instances as a matter of fact—you say that the development process will be actually lengthened by Bill 163. I wonder if you could just give us a few examples. I think you're pointing particularly at subdivision or condominium approvals.

Mrs Favron: The reason I focused on subdivision was one of the lures to accepting this, because we requested the delegation under the current legislation, or at least as it was when we received delegation. We had to ask for it, the minister could not impose it upon us, as this legislation will allow municipalities to get it. One of the carrots that was held out to us was that the decision was going to be made locally, we were going to avoid sending it down to Toronto to get approval.

In this process that's being established now, the rules of procedure that we agreed to when we accepted the delegation of subdivision approval from the ministry may very well not meet the requirements of this new legislation and I can't see how it's going to do anything but lengthen the process. I'm not suggesting necessarily that the end result would be a bad decision. You may get a better decision but you're not going to get a better decision faster.

Mr David Johnson: So if the objective was to do it faster, then it's not going to achieve that. I guess when you do your plans, and the subdivisions are part of the plans and the public has an opportunity to speak to it at that point, what I'm seeing is that perhaps you're having to have a second public hearing for subdivisions. Is that the concern?

Mrs Favron: I think it's naïve to suggest that people will get involved at the policy formulation stage. We can go out there and advertise public meetings until we're blue in the face, and until the bulldozer pulls up on the property, that's when we get the phone calls and people say, "Why did you let this happen?"

It's very difficult to mobilize the public when there's not a perceived and immediate threat to their neighbourhood. I don't fault them for that. We all have lots of things in our lives to be concerned with and it's difficult to keep up with all of it. We don't get the comments on the official plan amendments; we get the comments on the implementing zoning bylaw. That's where the problem is.

Mr David Johnson: Can I shift to the environmental impact statements? You made a comment on them. This is my first day on the committee and I'm just trying to bring myself up to scratch a little bit. I think there was a concern expressed at one point that you could go through the planning process—certainly for plans there is a great

deal of attention. I know Thunder Bay would spend a whole lot of time on environmental aspects of a planning process. Is it your concern that you may have to go through a second environmental process as a result of the policy statements?

Mrs Favron: Without seeing the regulations and how it's going to be implemented, what the legislation is suggesting is we could incorporate into our official plan the processes that would be required for an environmental assessment, so that at the end of the day you've combined the two processes. The most recent changes to the Environmental Assessment Act and the class environmental assessment process have suggested that, if you can bring those two together and if it's shown on an approved development plan, then it satisfies the class EA. Again, that may not necessarily be bad, but it's not going to be fast.

Ms Harrington: Thank you to the city of Thunder Bay coming before us today. We've heard that you are a very large municipality in area. How long have you had an official plan for the amalgamated city?

Mrs Favron: There was a Lakehead official plan prior to amalgamation, so there was always a planning board. With amalgamation we actually brought in a city of Thunder Bay official plan.

Actually, we operated under a portion of the Lakehead plan and it kind of got broken up into the various regions. We had the preceding municipality zoning bylaws in fact until 1983.

Ms Harrington: Are you satisfied with the vision in your official plan for your rural area as well as your urban area?

Mrs Favron: If I can respond to that by highlighting a problem that we see, what has tended to happen in the past is we've been going along doing reasonably well and a southern Ontario problem has been solved and the solution to that problem becomes our problem.

For example, in the city of Thunder Bay, when we're talking about intensification, we're talking about semidetached dwellings. We fight major board hearings on four-unit apartment buildings. We were making significant inroads in the area of affordable housing. We had created smaller lots for single detached dwellings. We had created a two-family zone that prohibited single-family dwellings, because zoning property for two-family dwellings doesn't guarantee anybody's going to build the two-family dwellings. If they want a single, they're going to build a single. We had lots of illegal basement apartments, and for that part of Bill 120 to take that problem away, I have no great problem with that.

Ms Harrington: That's good to hear.

Mrs Favron: However, the problem that we do have with Bill 120 is, in a municipality like Thunder Bay where people for whatever reasons put a lot of value on living in a single-family neighbourhood—we tried to eliminate our R-1 zone when we did the new zoning bylaw. You can't take away that status. You've taken away that with Bill 120, and what you're going to do is force more pressure on suburban development and development on septic systems, because they can't have

apartments. That's the only guarantee you're going to have to live in a neighbourhood that doesn't have two-family dwellings, and it's an emotional issue. In Thunder Bay we have a high percentage of home ownership and a very high percentage of single-family dwellings.

Ms Harrington: I wanted to get the overall view that you are satisfied with your official plan, that it's updated.

Mrs Favron: We now have a city of Thunder Bay official plan and we're undergoing our five-year review at the moment.

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Ms Harrington: On the last page you ask that adequate time be given to develop appropriate and workable implementation strategies for this bill, and I think that's a fair request. But what I wanted to ask our staff is how this process is going to happen. I know you mentioned it earlier. How is the implementation of this bill going to happen so the people in Thunder Bay understand?

Mr Hayes: I'll speak to that, if you don't mind. Certainly it is a real concern about having input and being heard. I don't know if you're aware, I mentioned it earlier with one of the other presenters, that we do have an implementation advisory task force, which consists of people from the housing associations, from AMO, which all municipalities are, or most of them are at least, part of, the environmental watch. Then we go over to the technical committee which there are solicitors' groups, there are landscape architects, there's the Canadian Bar Association, there are municipal engineers, and the list goes on about people that are there with the input and the implementation committee dealing with the guidelines and regulations.

Ms Harrington: I wonder if you had any comments.

Mrs Favron: If I may put on my planner hat for the moment, planners are conspicuously absent in that implementation strategy and planners are being blamed—the comment was made about planners have put in septic systems, planners have done that. We've done our best to control development within the framework that we operate in now, and we are also going to be the ones who will become the scapegoats for this unsuccessful attempt at reforming the planning system.

Ms Diana Dewar: I'm Diana Dewar from the Ministry of Municipal Affairs. The implementation advisory task force is comprised of members of the Ontario Home Builders' Association, Urban Development Institute, AMO and the Ontario Environment Network. There are two planners that I am sure you know, Jennifer, representing the planning profession on that task force—they are also AMO representatives—Nick Tunnacliffe and Malcolm Boyd. In addition to that, there's a technical subcommittee and Ron Shishido of the Ontario Professional Planners Institute is on that committee.

We have certainly tried to include the planners to the greatest extent possible and the planning profession has been making a tremendous contribution to the implementation of the bill. There are regular meetings and at the regular meetings all of the implementation guidelines are put before the committee. There's a lot of discussion and

also the regulations, as they become available, are put before the committee.

I would also like to clarify a couple of other points. In your presentation you mentioned that the ability of the Ontario Municipal Board to dismiss an appeal did not apply to zoning. I believe that subsection 34(25) of the bill would cover your concern.

Mrs Favron: In the official plan process it quite specifically says in the notice of the public meeting you have to tell people that if you don't participate at this stage you may lose your opportunity to appeal later. When the board considers an appeal, they can dismiss it if the appellant did not make a submission to the council in the original public meeting, either an oral submission or a written submission. That is not included in the zoning process.

Ms Dewar: Perhaps we could talk to you about that.

The other thing I would just like to mention is that the city of Thunder Bay will be assigned the authority to approve plans of subdivision under section 51.

Mrs Favron: We have it now, but it's delegated.

Ms Dewar: The act automatically assigns that authority to Thunder Bay. You're quite correct, it has been delegated so, in effect, there should not be a significant change with respect to subdivisions.

Mrs Favron: That's right. We have more restrictions on what we were already able to do under the current legislation.

Ms Dewar: There will be some subdivision requirements that are included in Bill 163 that are not contained in the current legislation, for example, the notice on a plan of subdivision, as you've mentioned, and the minister will remain the approval authority for official plans and official plan amendments.

In your presentation you talked about municipalities having to "prepare an official plan which contains certain prescribed information and the province suggests that 'Once these plans are in place, municipalities will have the power to approve development without further approval from the provincial government.'"

Mrs Favron: That's a quote from the publication that

you're circulating with the material.

Ms Dewar: I believe that that applies to the counties. Counties will be required to have a plan and, once that occurs, then that authority will be delegated. I just wanted to clarify what the legislation contains as it applies to Thunder Bay.

Ms Karen Smith: I guess the distinction is, Thunder Bay already has a plan.

Mrs Favron: Which I presume we will have to bring into compliance with.

Ms Smith: But you will not lose your current authority or your approval ability.

Mrs Favron: No, we'll have to change the rules to comply with the new process.

Ms Smith: Yes, but there will not be a deadline.

Mr Hayes: On your concern that you raised about the changes following a draft plan of approval and then having to have another 30-day notice, we've heard that everywhere we've gone and we are certainly taking a look at that particular part of the legislation.

The other thing, I think just in all fairness, when you talk about not being formally advised, no one has been formally advised. It's a procedure that has been in place for years, and it's advertised—

Mrs Favron: My point exactly.

The Chair: It's advertised to the world.

Mr Hayes: It's not because of this legislation. It has been there for years and it's not a reflection on this government about pushing things through. I think we should make that clear. It has been advertised in all of the papers and this is a procedure that has been followed many times.

The Chair: It's what we always do.

Mr Hayes: We're really pleased that you are here, though.

The Chair: It works, most of the time. Thank you, Mr Hayes. Thank you, Alderman Polhill and Ms Jennifer Favron, for presenting this brief and presenting your concerns to this committee. This committee is adjourned.

The committee adjourned at 1247.

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- Winninger, David (London South/-Sud ND)

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Substitutions present/ Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Mr Gary Wilson
Eddy, Ron (Brant-Haldimand L) for Mr Murphy
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli
Hayes, Pat (Essex-Kent ND) for Mr Malkowski
Johnson, David (Don Mills PC) for Mr Harnick
Perruzza, Anthony (Downsview ND) for Mr Bisson
White, Drummond (Durham Centre ND) for Mr Winninger

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister
Forrest, Norma, acting senior planner, municipal planning policy branch
Dewar, Diana, manager, municipal planning policy branch
Smith, Karen, manager, plans administration branch

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service



Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 15 September 1994

Journal des débats (Hansard)

Jeudi 15 septembre 1994

Standing committee on administration of justice

Comité permanent de l'administration de la justice

Planning and Municipal Statute Law
Amendment Act, 1994

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

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STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Thursday 15 September 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Jeudi 15 septembre 1994

The committee met at 0931 in the Travelway Inn, Sudbury.

PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

TOWNSHIP OF McDOUGALL

The Chair (Mr Rosario Marchese): We call upon the township of McDougall, Reeve Peter Spadzinski. Welcome to this committee.

Mr Peter Spadzinski: Thank you.

The Chair: Just as a reminder, you have half an hour for your presentation.

Mr Spadzinski: Is that all?

The Chair: It's too much already. You have to leave enough time for the members to ask you questions.

Mr Spadzinski: I would have to say everything five times if I were to use up that half hour, so you'll be relieved that my comments will be relatively brief. First of all, I'd like to just mention that I'm also the chair of the Parry Sound Area Planning Board in addition to being the reeve of the township, and today I'd like to address some issues that relate to both of those positions which I hold.

First of all, I want to say from the outset that I laud this legislation, at least some aspects of this legislation. I believe the purpose of this legislation, certainly the aspects and so on, are commendable. I think the local level can only support any legislation and agencies that preserve integrity at all levels.

I would like to suggest, as you probably have heard over the years, that the local government is probably the government that, by its nature, is the most accountable to its electorate. My neighbours have access to me almost at will. They just have to pick up the phone. They drive over to see me. The same is true of all our councillors. I think the notion of accountability and integrity is very

significant for anyone involved with local government, so we have no quarrel with the intent of this legislation. The purpose is noble. However, I would suggest to you that there is something lacking in the process that is being outlined in the proposed legislation of the province.

First of all, I'd like to just muse a little bit. I was wondering why religious affiliation wasn't being asked for in the disclosure aspects, sexual preference and so on. Of course, you would answer that it was totally irrelevant to any of the issues that we might be dealing with. Our concern as a council is that in the disclosure portion of this legislation, in order to achieve accountability, you are asking people to disclose things that are totally irrelevant to their decision-making process. My owning a condominium in Florida is of no significance to anything that I do within my municipality. By the way, I don't own one.

I would suggest that if I had a yacht docked at my local marina that was 40 feet long, that might have more relevance, but I don't have to disclose that, necessarily.

In some ways, your legislation asks some of us to disclose information that I believe is totally irrelevant to our decision-making process. I can see where with respect to real estate holdings within my own jurisdiction or any body that I'm connected with, any group that I'm connected with, in which I'm involved to some extent, certainly I ought to declare all of my holdings. But I believe that when you ask people to go beyond their area of jurisdiction, then you're asking for irrelevant information, similar to religious affiliation and sexual preferences.

My question of the committee is, if in fact we want to maintain and preserve the integrity and accountability of local government decision-making, why are you not asking also that employees of the municipality make the same kind of disclosure? What about civil servants at every level? What about advisers, legal advisers? Should they not also be asked to disclose if they are in fact involved with a decision-making process, even if it is in an advisory capacity? I would suggest to you that might be more relevant than whether or not I have a condominium in Florida.

So I would strongly urge the committee to make recommendations concerning what is relevant to the local decision-making process. I'm not here to tell you I know the answer, but I have a strong sense that some things that are going to be asked of me and asked of anyone else who runs for local government will be irrelevant and therefore will become so frightening to anyone who might entertain getting involved that they will just not get involved.

The second aspect that I'd like to just mention with regard to this: Again, I believe in accountability and I believe that we ought to disclose what is relevant and I believe that we ought to make that information accessible, but I wonder how you avoid the whole notion of idle curiosity, a busybody wanting to know my personal business for the wrong reasons, perhaps a real estate agent, perhaps a lawyer, perhaps a criminal—and they're not all the same.

Some people may want to know my business for the wrong reasons. How am I safeguarded against that kind of thrust? Surely, there has to be a reason for someone wanting that information. It is not too much to ask that person to at least put a request in writing asking for that information so it isn't just someone dropping by on the way home from shopping and saying, "I'd like to know what So-and-so has declared." I think there has to be some safeguards to the people who run for public office.

Please understand that I do this part-time, and it is really part-time. I've taken some time off from my employment today to come here. I understand where there are full-time professional politicians, where perhaps there are some things that may be more relevant, but when you work in a community, when you live in a community, when you're so close to everyone within that community, you have no anonymity; none whatsoever.

To make all of this information public is one thing; to make it accessible is another thing. I would suggest to you that until each of you and every civil servant in the province of Ontario is willing to post their personal holdings in a very accessible place, then perhaps this legislation is going too far.

For example, if I were to ask you where your conflict-of-interest disclosure is filed, I would probably find out that in order for me to find out what your holdings are, I would have to get to Toronto somehow, or to your constituency office, which may not be very accessible. I would have to make considerable effort to get to that information. Why not put it on Internet and make it available to everyone, if we really have that as an intent, if that's our purpose?

I would strongly recommend that you place some restriction as to how people access this information and for what purpose. Somewhere a person ought to put in writing the purpose for wanting to know. They have a right to know, but they ought to make their purpose known. That's my second point.

The third point with regard to the conflict of the disclosure process and this whole notion of accountability is one of the parts of this legislation which talks about a commissioner who will be involved in investigation. My question to you is, what's the purpose of this commissioner if in fact his recommendations need not be considered by the person who has lodged the complaint?

If the commissioner decides that there wasn't enough evidence or there was no indication from his or her investigation that there was any wrongdoing and then ignores the request from some complainant, why does that person then have the opportunity to drag that on and proceed into a court hearing when it has already been deemed by someone who will have investigated, I would

think, fairly carefully that there wasn't enough evidence to suggest that there was any conflict?

0940

I would like to suggest to you that if a commissioner is involved, that commissioner ought to have the final say. Once the investigation has been held, it's unnecessary to drag it out further and put someone through a horrendous process, not only in terms of their public life but also in terms of costs and all the other things associated with that. Do away with the commission and go right to a court hearing, or have the commissioner fulfil some reasonable function with some finality to it. That's another recommendation that I would make.

Now, just one other aspect. Those are sort of general comments and I suspect that you may have heard some of these before, I'm not sure.

As the chair of the Parry Sound Area Planning Board, we were involved when Mr Sewell and his commission visited our area. We made a submission. We expected great and wonderful things to come out of his travels around the province, and when we got a copy of the changes as proposed by Bill 163, or at least the portion that deals with planning, we were somewhat dismayed.

Our sense is that while we will supposedly have more power, those powers have been in fact given to us with a whole series of constraints that will be impossible for us to really deal with. The provincial policies that we are going to be asked to take into consideration, which in effect become really guidelines for us which we will have to certainly keep in mind when we're making decisions or else somebody's going to be upset, have never been developed in any local context.

If they're going to be relevant to us, if they're going to have significance within our planning process, then I would suggest to you that those provincial policies ought to be dealt with within the local context when they're established. They ought to be part of our official plan perhaps, vetted through a public process, included in our official plan and reviewed every five years.

We're getting tired of policies that change from month to month. We have people who apply for severances or who apply for subdivisions for land holdings, only to discover that some of the policy guidelines and the interpretation of those guidelines have been changed dramatically. We don't have that latitude. We have to do these kinds of things basically through our official plans.

I would suggest that if we're being asked to see that provincial policy is being implemented, those policies ought to take the same route that our provincial plans take so that the public not only has an awareness of those but has also had an opportunity to have an input in the establishment of those policies.

By virtue of the fact that we're so far removed from most of the decision-making arena, we very seldom have an opportunity to get involved with the establishment of policies, with hearings, and yet those policies control us in Parry Sound. We never have an opportunity to really review those policies in an effective manner.

I would, as a general comment, suggest to you that any changes in the Planning Act, in the planning part of Bill

163, that do not give the local municipality not only certain powers to see that these policies are in place and in fact adhered to—but we must also have the opportunity at least to be able to review them and incorporate them into our official plans.

In summary, I again would just like to reiterate that the disclosure portion of this legislation, I believe, has got to make certain that the information is relevant. Please make certain that it's relevant information, relevant to McDougall township, as well as relevant to the city of Toronto.

Please make certain that I am protected so that idle curiosity isn't the motivating factor to finding out what my interests are. I believe that somewhere along the line people have got to at least show that there's a specific reason why they want to know what my holdings are. They ought to be able to access this information, very definitely. They ought not to have to drive to Toronto to get the information, very definitely. But I don't think it's too much to ask someone to put in writing a request asking for information. That, I think, is a reasonable kind of an expectation of anyone who wants to know. I think it needs to be more than just dropping by the local municipality to pick up the information.

Third, please have the commissioner's findings take on more weight than is being suggested in Bill 163. Make it a final decision. I'm not sure whether the lawyers would say this bill could have that kind of power to remove, perhaps, from people some legal rights, but I believe we do it in other areas. We do it with the Ontario Municipal Board; we do it in certain things. Why not have the commissioner be able to make a final decision, to avoid a prolonged, unnecessary, legal process that may go far beyond anything that can be asked for in terms of maintaining integrity in the local government?

The last point was, as far as planning is concerned, please make certain, do your part in seeing that this legislation is revised so that if in fact provincial policies are going to be implemented by the local municipalities—and they're being asked to do that—there has to be a way of vetting those policies through the local scene and incorporating them into our local official plans so that they have some meaning for our residents.

Those are all the sort of formal, official comments that I'd like to make.

Mr Bernard Grandmaître (Ottawa East): Let's start with the Planning Act. First of all, does your region have an official plan?

Mr Spadzinski: Yes, we do. Our official plan has been in the process of being revised for the last seven years.

Mr Grandmaître: Seven years?

Mr Spadzinski: Yes. I think we've almost revised it, just in time to be two years late for the next revision.

Ms Karen Smith: It is revised. The difficulty is that certain—

Mr Grandmaître: Is that my time?

Ms Smith: Sorry.

Mr Grandmaître: In the last seven years, I'm sure

you must have been faced with minor variances to your official plan or your zoning bylaw, whatever. How many of your minor variances were appealed to the OMB? Were there any?

Mr Spadzinski: I think since I've been on council we haven't had any minor variance appealed. Now, there was one appealed before my term and it came into my term of council. It involved a piece of property where someone deemed that the variance wasn't a minor one. We don't have a lot of minor variances. We certainly have a lot fewer now than we used to have. But to my knowledge right now, we haven't had any certainly in my term of office.

Mr Grandmaître: Do you agree that minor variances shouldn't be appealed to the OMB, that the council's decision is a final decision?

Mr Spadzinski: So long as the minor variance is a minor variance. My understanding is that—

Mr Grandmaître: What's a minor variance?

Mr Spadzinski: Again, there used to be a guideline, you know, a rule of thumb that I understand has been expanded so it's a hand of thumb now, or a rule of hand, I should have said. But I think that a minor variance, by definition—and I guess the question is, what is minor? Is it 10%, is it 20%, is it 19½%?

I'm not opposed to the local council having the opportunity of making those kinds of decisions. I have no problems even with an appeal of a minor variance; I really don't. Most people, in our experience, have been very reasonable. We haven't had a lot of appeals on minor variances, because I believe our local council has handled them in a reasonable manner.

Mr Grandmaître: On the disclosure part of this bill, you mention the commissioner, and I agree with you that, at the present time, this committee doesn't know what the responsibilities of, or how, the office of the commissioner will be managed. We don't know if it will have assistant commissioners in some parts of the province. But I agree with you that there should be a safeguard, because, after all, 95% of our municipal politicians are part-time people. I think we should have a disclosure kind of legislation, but at the same time I think that the commissioner will have to be very, very careful in how he accepts his responsibilities and delivers that service.

0950

Mr Ron Eddy (Brant-Haldimand): You make a very good point about the provincial planning policies, and I see your point about including them in the official plans; it's a different approach. But considering that northern Ontario is so much different from southern Ontario and the policies are not subject to review and are not being reviewed at this time, I think you make a good point about adapting them for use for especially northern Ontario.

Mr Spadzinski: We have a lot of frustration from people who think they understand the rules. They initiate a process, perhaps a severance or whatever, and out of the blue, when it is being reviewed by one of the agencies, whether it's the Ministry of Natural Resources or the Ministry of Environment and Energy, quite often if the

policy hasn't changed, the interpretation of the policy begins to change dramatically. While that's always going to be the case because it involves people and people have different emphases, so if you have personnel changing they may have a different thrust, the problem we have is that a lot of these changes go beyond just interpretation; They are dramatic departures from what our understanding was of the policy, and it happens at a time after people have initiated a process. It becomes very expensive for them, and it really is a killer for development in our part of the province now.

Mr Eddy: You make good points. I regret that we're dealing with so many subjects in one bill.

Mr Spadzinski: Right.

Mr Allan K. McLean (Simcoe East): Welcome, Reeve, and thank you for coming and presenting your views of the municipalities and some others this morning.

The issue that you raised on the conflict with regard to staff is an interesting one, because nobody has raised that before as we've travelled the province. When you have a lot of ministry staff that are drafting letters and writing letters, those people could be in conflict. So it's important that it be discussed and brought forward, and I thank you for that.

But there's been a Manitoba model that has been raised by different delegations, and that model is where it's filled out and put in an envelope and it's kept in the clerk's office until there has been a complaint made against anyone that they feel could be in a conflict, and then it's opened. In that way, then, it's not for public view at their discretion, as you would say. So that model has apparently worked well in Manitoba, and I think it's worthwhile that we look at it here, too.

Mr Spadzinski: I've heard terms like "gatekeeper" and I guess that's a fairly popular buzzword right now. I'm not even suggesting that we have a gatekeeper. I'm not suggesting that we put someone in the position of having to decide, especially a staff person, whether or not he's going to release that information. That makes him feel very vulnerable, and he should not be put in that position. But I do believe that it ought to be a staff person who has to be approached, who has to receive something beyond just an oral request.

So let's not put staff in the position of having to make those decisions. I think that would be a horrendous place to be in. But I think it has to be a little more formal than just, "Hi, I just thought I'd come in and I'd like to see—" and be done with it. I think it should be in writing. I think even the purpose for the request ought to be identified. That gives everybody the safeguards, I believe, and it still makes it very, very accessible. But let's not give in to idle curiosity and all of these other things. I don't think that does anything for integrity of local government.

Mr McLean: I want to ask you a question with regard to the Planning Act. There's no question in our minds that southern Ontario and northern Ontario are altogether different when it comes to the terms of planning. This bill certainly looks after the urban areas. You have an official plan; you're not within a county;

you will never have planning approval. I understand that Sudbury, if I'm reading their brief right, also never had planning approval and may never have it. So I'm wondering where we're going to come off with municipalities such as McDougall township. You will always have to go to the minister for the final approval.

Mr Spadzinski: My sense is that that's not a bad thing so long as what we're being asked to do in order to facilitate some of the provincial thrust has some reason to it. My sense is—and this is just my sense—that this is a kind of downloading, with almost every safeguard in it that you could possibly put in through the policies, without coming out and saying it.

So we will in fact be doing a lot of things that were done formerly by the Ministry of Municipal Affairs through either plans of subdivision and other things. But in fact, in order to implement then all of these new things that we're going to be possibly doing down the road, our hands are going to be so tied by policies that are vague that we will not really be able to make any decisions at all, and it will frustrate the whole process.

Mr McLean: And everything you do has got to be "consistent with," so that's a problem.

Mr Jim Wiseman (Durham West): On the comment that Mr McLean made earlier, in fact the issue of staff has come up. A colleague, Christel Haeck, from St Catharines is very interested and very concerned about that and has raised it a number of times. Perhaps with people moving around in this committee, it might have been missed. That is definitely something that some of us have been talking about, and it does make good sense to think about it because you could have somebody making a recommendation to you on a downtown zoning that owns half of downtown and yet is not covered by the guidelines. That would perhaps wind up making them much better off than they currently are.

Mr Spadzinski: You mean they may have the yacht down at the—

Mr Wiseman: They may also have that. They may also have—which brings me to the condominium in Florida. While there may be no planning connection there, there may well be another connection in that our Conflict of Interest Commissioner is always interested in tracking our mortgages and whether they've been paid off or not and watching for inconsistencies in—

Mr Spadzinski: Suspicious fellow, but anyway.

Mr Wiseman: Well, I think in the past he may have been given cause to be somewhat suspicious. In my case, there are more debts than payments so that there's not a problem. So there may well be a connection—I'm kind of like Mr Eddy, who owes everybody everything—so there may be some kind of a problem that can be tracked through that.

In fact, the guidelines as they would apply to municipal councillors would be less than they apply to us as members of provincial Parliament. So I just thought I'd throw that out at you so you can think about that.

On the planning part, I'm of the firm opinion that official plans aren't worth the paper they're written on. They're just there and any developer who wants to come

along can change them whenever he wants.

Mr Spadzinski: Not in our township, but anyway.

Mr Wiseman: Well, I'm happy to hear that because where I come from it's—

Mr Spadzinski: Well, ask Karen Smith. She can vouch for us. We've been doing things by the book for years.

1000

Mr Wiseman: What, I guess, we're trying to redress in this legislation is the view from the other angle, and that is that the individual in the community needs to have some assurance that the planning process is working for them as well and not just working for developers or for people who have a private property interest.

For example, if a person buys a piece of property and they check out the zoning next door and they think, "Great, that's fine, that's the zoning that we're buying," they should be given some assurances when they actually move in that that zoning is going to hold, that there isn't going to be a radical change from, say, a public space into some kind of development. If the planning system is going to work, then these checks and balances among the residents, the developers and the council have to be brought back into whack, because what we're hearing from environmentalists, individuals and ratepayers' groups is that it's way out of whack right now; that it doesn't matter, you can line up a whole group of people who are opposed to something for very sound reasons and it'll go through.

We've heard from some councils that—

The Chair: Mr Wiseman, sorry to interrupt but—

Mr Wiseman: This is the question—that even the council doesn't want it but it goes to the OMB. How do we get this balance back in the system or at least the perception of it?

Mr Spadzinski: From our experience, because we are a small municipality everything we do is under close scrutiny. The reality is if accountability is an important part of this legislation, as it is suggested it is, we have only three years, and we're very accountable a lot more often than you are. I know that while people can ignore their electorate, and some do, I would suggest that you will never be able to put enough legislation in place to guarantee accountability and integrity. If you're going to try to dot every i and cross every t, what will happen is that in fact you will stop all development. You cannot put enough safeguards around these things to make them foolproof.

What you have to be careful of, however, in order to achieve your goals is that you don't frustrate—and I think there's a sense in the province now that almost everything that government touches becomes an endless process that involves inordinate costs, incredible time and may not in the long run serve anybody's best interests.

So I'm not sure how you do that. I'm not suggesting that I have the answers; I'm just saying, please make certain that if you're asking us to do things, then give us an opportunity at the local level to at least vet that so that our ratepayers, the people who have to live with our decisions, have had an opportunity to have a kick at the

cat, to have a say, to see that it makes sense at our local level while it still adheres to the provincial thrust.

I'm not sure how that can be accomplished, but please don't frustrate us to the point where all development and all growth and all life eventually will stop in rural Ontario. That's in fact what's beginning to happen here. For rural Ontario, including the Parry Sound area, McDougall township, I see virtually no development if in fact some of these things begin to come to pass. We have seen provincial policy guidelines totally control our agenda locally, and I'm not sure how we'll ever resolve that.

The Chair: We want to thank you for coming, and thank you for bringing your concerns and suggestions to this committee.

REGIONAL MUNICIPALITY OF SUDBURY

The Chair: We invite the regional municipality of Sudbury, Mr Bill Lautenbach.

Mr Bill Lautenbach: To the Chair and members of this committee, I'm pleased to have the opportunity today to address the standing committee on administration of justice to express the concerns of our region on the Planning Act reforms proposed in Bill 163. I might also add that Sudbury is a single-tier planning municipality, so not only am I here on behalf of the regional municipality but of each of our seven constituent municipalities which we provide planning services for.

Since the regional municipality has already made a submission dated June 22, which you also have before you, I'm only highlighting the main concerns expressed in that submission together with several additional comments.

First I'd like to address the proposed new section 1.1 of the Planning Act which defines the purposes of the act. When the Sewell commission recommended the addition of a purpose section of the Planning Act, the region supported that recommendation. In our view, however, the wording proposed in this bill misses several key points of the Sewell commission recommendations.

To begin with, the proposed section 1.1 does not fully capture the essence of the original Sewell commission version. The long-term perspective embodied in the phrase "for the benefit of present and future generations" of the Sewell commission version is lost. The purpose of fostering "cultural and social well-being" contained in the Sewell commission version is also lost.

Finally, the introduction of the term "sustainable development" without giving it an operational definition would create uncertainty and set up unnecessary barriers to implementation. In a limited way, the Sewell commission version has attempted to define "sustainability." Until a better operational definition of "sustainable development" is proposed, the original Sewell commission version is still superior to the proposed version.

Furthermore, the word "accountable" of the Sewell commission version has also been deleted in the proposed section 1.1. We submit that if there is no accountability in decision-making, an open and timely planning process as proposed in the purpose section will not have much meaning. Taken as a whole, the proposed section 1.1 is

a step backwards from the Sewell commission recommendation 1.

In its place, we recommend the following version as an alternative:

"The purposes of the Planning Act are to guide the sustainable and orderly development of land for the benefit of the community of Ontario, to preserve land resources for future generations, and to strike a balance between competing interests and competing demands on limited resources. In practice, planning should:

"(a) foster economic, environmental, cultural, physical and social well-being,

"(b) protect and conserve the natural environment, foster the health of ecological systems, conserve and manage natural resources for the benefit of present and future generations,

"(c) provide for planning processes that are fair, open, accessible, accountable and efficient, and

"(d) encourage cooperation and mediate differences and conflicts among different interests."

The second issue I wish to address is in regard to provincial policy statements. The bill proposes to change the "shall have regard to" wording of the existing act to the "shall be consistent with" wording. The region, much like Parry Sound, supports the change to the "consistent with" provision if it is interpreted with flexibility by the province to allow for local adaptation. Like Parry Sound, we see this as a major distinction with respect to provincial policies and north-south interests.

The region, however, sees no justification as to why all ministries and government agencies are not included among those whose decisions shall be consistent with policy statements, as they are currently required to have regard to policy statements under the current act.

We therefore recommend that besides the council of a municipality, local board, planning board, the minister and the municipal board, the decisions of every minister of the crown and every ministry, board, commission or agency of the government, including Ontario Hydro, shall also be consistent with provincial policy statements adopted under section 3 of the Planning Act.

Provincial interests are listed in section 2 of the Planning Act. This bill has already proposed an expanded list of provincial interests. There is no need for the minister to prescribe additional provincial interests by regulation under proposed section 70 of the act. If additional provincial interests need to be prescribed, the act should be amended. We therefore recommend that item 41 of this bill be deleted.

The third issue is in regard to the approval of official plans. The bill proposes amendments to section 17 of the act such that certain upper-tier municipalities with a two-tier planning structure having an approved official plan will receive delegated authority to approve lower-tier official plans. The regional municipality of Sudbury, having a single-tier planning structure, is not designated to receive that delegated authority, even though our region has had an approved official plan since 1978.

Therefore, all official plans and plan amendments adopted by the region will continue to be approved by the

minister. This has created and will continue to create unnecessary delays for many amendments that are minor and do not involve provincial interests. It should also be noted that the bill provides official plan approval powers to the region of Peel and the region of York, even though their official plans have not yet been approved. I would add that Metro Toronto, being our largest region, has also not been delegated. It's my personal opinion that this should happen.

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On more than one previous occasion, the region requested the delegation of official plan approval powers from the province. Within the context of Bill 163, proposed subsection 17(2) could be amended to allow a limited delegation to occur in the region's case. We therefore recommend that the following sentence be added at the end of the proposed subsection 17(2): "For the regional municipality of Sudbury, the regional council is the approval authority in respect of the approval of an official plan amendment under section 22."

Under such a provision, the revised official plan and secondary plans will be adopted as standalone plans that will continue to be approved by the minister; whereas secondary plan amendments not subject to a referral request will be approved by the region.

A number of new provisions proposed in the bill will be very useful in reducing unnecessary delays and frivolous requests for referral to the Ontario Municipal Board. The region supports all of these new criteria for testing appeal referrals, as well as the use of alternative dispute mechanisms, which is presently not included in the act. However, the requirement that the person requesting the referral should have made a submission to council before the matter under appeal was adopted, should apply to all parties. Public bodies should not be exempted. We therefore recommend that section 17 and similar sections elsewhere in the bill be deleted. We further recommend that the same set of standard tests should apply to all referral requests, including those regarding subdivision and consents.

With regard to zoning bylaws, the most significant amendment brought forth by the bill is the extension of zoning powers to cover "contaminated lands or sensitive areas," "natural features and areas," and "significant archaeological resources." From a municipal perspective, these amendments are positive changes.

However, missing from all the proposed changes is the power to control soil stripping under the Planning Act, specifically under zoning. Despite the usefulness of proposed section 223.1 of the Municipal Act in enabling municipalities to regulate the placing of dump and fill, there is still a missing ingredient in this bill. In its submission on the interim report to the Sewell commission, the region recommended that, "site alteration be defined as a use of land," and hence may be regulated under the Planning Act. Likewise, the Sewell commission final report also recommended that municipalities be authorized to regulate tree cutting, vegetation removal, changes in elevation, placement and removal of fill, and removal of peat. However, only the dumping of fill and site alteration are covered in the present bill. We recom-

mend that these missing regulatory powers be included in the Planning Act and that all municipalities, and not just local municipalities, be allowed to exercise these powers.

With regard to plans of subdivision, proposed subsection 51(33) allows for the withdrawal of the approval of a draft plan of subdivisions or changes in condition. When that happens, public notification of such actions is required. While there are valid reasons for such provisions, the current act allows the municipality discretion on notification for minor changes or administrative modifications. The proposed subsection 51(34) would not allow that discretion, and will lead to unnecessary delays, as any such minor change may be appealed to the Ontario Municipal Board. We therefore recommend that regulations be developed to specify the range of administrative or minor changes that might be made without the need for full notification under proposed subsection 51(34).

The region appreciates the many changes that will streamline planning approvals. At the same time, however, other changes introduced in this bill are contrary to the philosophy of streamlining. For example, the bill provides that prior to considering the adoption of an official or plan amendment, a 30-day notice must be given prior to the public meeting. Likewise, 30 days must have elapsed between the public meeting and plan adoption. By not distinguishing between the adoption of the original official plan, major amendments to the plan, and minor amendments to the plan, this 30 days and 30-day schedule will lead to unnecessary delays for the majority of cases in our region. Therefore, the region recommends that the Planning Act should stipulate a procedure only for the adoption of the original official plan which in turn would stipulate procedures for major and minor amendments.

One significant change proposed under minor variance is the removal of minor variances from being appealed to the Ontario Municipal Board. This is a recommendation that our region and many other municipalities proposed to the Sewell commission during its hearings. Such a change would eliminate a significant amount of time for the OMB and will speed up other, more important appeals.

In implementation, however, a situation that is not being addressed in the bill will occur. Under the current system, it is often the municipal council that appeals the decision of the committee of adjustment to the OMB. Therefore, the municipality is the appellant. Under the new system, where council delegates minor variance approval powers to the committee of adjustment, the council will also be the ultimate hearing body instead of the OMB. Under such a scenario, who will be considered to be the appellant? Does the proposed section 45 intend that the council may be both the appellant as well as the hearing body? A number of legal and procedural issues will arise from that situation. We therefore recommend that the intent of proposed section 45 be clarified on these matters.

As a final note, I wish to impress upon the committee that although we appreciate the initiatives the province has taken in proposing reforms to the Planning Act, a substantial number of recommendations of the Sewell

commission have not been acted upon. A case in point is the integration of the Environmental Assessment Act and the Planning Act. Although the proposed section 16.1 is pointing in the right direction, these acts are not fully integrated legally and procedurally as they should be. The province should continue to follow up with additional legislation and administrative changes to implement the remaining Sewell commission recommendations.

In closing, I wish to express again our appreciation for this opportunity to address the standing committee. If there are questions on my presentation, I'd be happy to elaborate them at this time.

Mr McLean: Welcome to the committee, sir. The seven local municipalities, do they have official plans?

Mr Lautenbach: All of our seven municipalities have secondary plans which are approved through regional council.

Mr McLean: And your official plan's been approved since 1978.

Mr Lautenbach: That's correct.

Mr McLean: You've had updates, of course, since then.

Mr Lautenbach: We've had amendments to those plans, but with the exception of a couple of secondary plans, we haven't yet reviewed the regional official plan in totality.

Mr McLean: Has the ministry suggested you do that?

Mr Lautenbach: We are scheduled to do that in the next two years.

Mr McLean: Have they given you an indication at that time that perhaps you may get approval to delegate from the ministry to the region?

Mr Lautenbach: We have no indication that delegation will be forthcoming.

Mr McLean: Have you asked for it?

Mr Lautenbach: On several occasions, before the Sewell commission, before our local MPPs and in a formal request to the ministry on more than one occasion.

Mr McLean: The alternative dispute mechanisms—you touched on that with regard to the referral to the Ontario Municipal Board. Section 13, you're wanting to see that amended—I guess deleted, really, is what you're looking at. Subsection 51(42): you're looking to have that deleted, and, "We further recommend that the same set of standard test should apply to all referral requests...." Are you saying there are some referral requests that are not at the same standard?

Mr Lautenbach: What we're saying is that the ministry can request an OMB appeal later in the process without having to go through the same—

Mr Grandmaitre: Rigamarole.

Mr Lautenbach: Yes—that individuals would have to go through.

Mr McLean: Minor variance has always been a major issue and some people have never really determined what a minor variance is yet. You're saying here that the appellant as well as the hearing body could be the same person.

Mr Lautenbach: In our particular case, that happens. That happened or would have happened under this legislation last night where in fact we did appeal a minor variance through council to the OMB. If we were the hearing body, then regional council would also be hearing that appeal.

Mr McLean: And their decision would be final.

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Mr Lautenbach: That's correct.

Mr McLean: It would be over with. Thank you. David, did you have any questions?

Mr David Johnson (Don Mills): You've indicated that you support the change of the words from, "shall have regard to," to "shall be consistent with," if—and there's a big "if" here—there's local flexibility in terms of interpretation by the province. I just wondered on what basis you would have grounds to believe, because that seems to be a big issue and that's an issue the previous deputant remarked upon as well.

On what basis would you be confident that you would get that local flexibility?

Mr Lautenbach: I guess, like Parry Sound, we would like to see that flexibility built into our official plans and secondary plans which the ministry and the various other ministries would grant approval for. As long as that's the case, then that local flexibility could be developed between the parties.

We certainly have differences in agriculture right off the bat. We have similar soil conditions, but different climate, so your class 1 automatically becomes our class 2. Those variations need to be adaptable into a planning system.

Mr Wiseman: You probably heard my comments about official plans to the previous deputant.

The Chair: I'm sorry, I had Ms Harrington on the list first, so if you—

Mr Wiseman: I'm really quick.

The Chair: All right.

Mr Wiseman: An official plan takes a long time to create. It's supposed to be balanced, supposed to be holistic and it's supposed to be structured in a way that one thing leads to the other and it's an integrated kind of system.

However, when you come along and change the zoning of one section of the plan that was maybe zoned medium- or low-density or natural area, then you say: "Okay, we're going to change that. We're going to make it industrial-commercial," why shouldn't you have to redo your entire official plan to bring the entire plan back into balance?

Mr Lautenbach: With our planning system here, we have a very extensive public process that we undertake at the regional level, in the first instance. When a plan is modified or changed, either for the official plan or zoning, there is also an extensive public process that occurs.

As a staff, we would also try to ensure that in fact our policies are in balance, so if they're starting to fall out of balance, we will advise the council of that in our recom-

mendations for any change and council can take appropriate action.

Mr Wiseman: One last quick question: How many official plan amendment changes of the magnitude I've talked about have you turned down?

Mr Lautenbach: I can't give you a concrete number, but I think our track record is very good, if you would investigate it.

Ms Margaret H. Harrington (Niagara Falls): First of all, I really appreciate your strong words here that you believe "shall be consistent with" is the way to go. I appreciate that very much, and also your comments that all ministries should be included under the same provisions of being consistent with. I do hear you on that.

I have two questions you have actually raised that I would like staff to answer. First of all, under "Minor Variance," you say, "Does the"—legislation—"intend that the council may both be the appellant as well as the hearing body?" I think that would receive a very quick answer.

At the same time, on page 3 you talk about the unnecessary delays that you feel may be encountered with regard to official plan amendments having to be approved by the minister. I would like to ask our very capable staff, do they see that there would be any unnecessary delays? I need to have them respond directly to you on that point.

Ms Diana Dewar: I'm Diana Dewar from the Ministry of Municipal Affairs. I would like to respond to the first question. With respect to minor variances, I would like to confirm by speaking to one of our solicitors back at the office but, as I understand, if the council sets up a two-step process for dealing with minor variances, it would have the ability to review a decision of the committee of adjustment.

Ms Smith: I'm Karen Smith with the Ministry of Municipal Affairs. Bill, we know each other. I'd like to try and respond to your question regarding the unnecessary delays regarding official plan amendments. I think one thing that will be changed in the new process is the rigour. It will be a time frame that is set, and we have to abide by it as much as anybody else has to abide by the other time frames for the other kinds of application processes.

We don't have a choice. We have to change and we are in the process of changing, and I think if you have noticed in the last eight months or whatever, that your time frame for the turning around of any regional or official plan amendment has been less than a month in a lot of cases.

Ms Harrington: I hope that will be helpful, Mr Lautenbach.

Mr Lautenbach: If I might, I think the difference here is that as a region with delegated authority for planning function, we're being treated somewhat differently than the other regions with respect to plan approvals once the official plan and the secondary plans are approved, and I think that's our major issue. We would like to have the ability to adopt minor amendments to those plans.

Mr Alvin Curling (Scarborough North): Thank you, Mr Lautenbach, for your presentation. In the same report and recommendation, many of the people who have come before us have said that the government had missed its mark completely, it is not reflecting the policy. We've had many people come before who've said that, and we await the regulations. Do you agree with that?

Mr Lautenbach: I think this legislation goes a fair distance to adopting some of the Sewell commission recommendations, but there's about another two thirds to one half of the recommendations the Sewell commission made which are not in this legislation.

Mr Curling: Two thirds to me sounds quite a big chunk and one third a gap as you've said. Other people also stated that maybe it's not new legislation that is needed to make this thing efficient. The fact is that people who have a job to do should go about it in an efficient manner, and maybe we can still get the thing working.

What happens to legislation is we have this long debate and façade that we are consulting, and the fact is that we are bogged down again, not getting it as efficient as we thought it would be. They say too that this process itself, after put in place, will take a longer time in getting plans approved or getting things working and would cost more. So said developers who are working with the system and other people too. Do you agree with their assessment of it?

Mr Lautenbach: There are a number of features of this bill which will actually speed up our process and be beneficial to us. As I pointed out in our brief, there are several other situations which will actually slow us down. One of those things which will slow us down is the 30-day notification for minor amendments.

Mr Eddy: Thank you for the presentation you've made because you've made some very, very important remarks. I'd like to correct Mr Curling, however. He says the government's missed the mark; I think the bill has missed several marks and you pointed many of them out. There is a great need for flexibility and I don't think you're going to have any flexibility, so you better be very concerned about that and probably you are.

There's an awful lot on the plate. We have several platefuls here—several. There are the provincial planning policies which are not subject to review, and you're not going to have the opportunity to incorporate them or vary them. We have the act and many amendments. The government itself will be proposing some amendments. We have the regulations which are unknown. We have the implementation guidelines which are unknown to us at this time, and maybe you're involved with those.

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Now we have this major point that many of the \$3-million Sewell commission's recommendations are being ignored and need to be considered, you have the unequal treatment of upper-tier municipalities, including Sudbury and Metro, which you have mentioned and, very important, indeed many of the counties. Then you have the need, as you have said, for the integration of the Environmental Assessment Act with the Planning Act.

That's a very important matter, I think, and I want to support that.

Now, with all of these things, should we proceed—

The Chair: We're running out of time, Mr Eddy.

Mr Eddy: Yes, so am I. We should proceed—

Mr Anthony Perruzza (Downsview): I move that his time be extended, because they're going to do it better.

Mr Eddy: Well, should we step back and all of us work together to do it better—all of us, including us. Do you think this should proceed in the government's time frame in December, with all of these things—

The Chair: It's a non-political question.

Mr Lautenbach: I gathered that.

Interjections.

Mr Eddy: No, it's a very important question.

Mr Lautenbach: Certainly this is very ambitious in the time frame you've set up for a complete examination of all the provincial policy guidelines that are being proposed. Having said that, there are definitely aspects of this legislation which will improve the planning process under which I work.

Mr Eddy: But the present act could be—

The Chair: Thank you very much. Mr Hayes with some points.

Interjection.

The Chair: Mr Hayes now on the list. A few quick points, Mr Hayes.

Interjections.

The Chair: I would just remind the members that every time someone speaks a bit loudly in this room, there's a great deal of noise. Please control yourselves. Mr Hayes, please.

Mr Pat Hayes (Essex-Kent): Thank you for your very balanced and fair presentations you made here today. There are a couple of points that I want to make. One is when you talked about the exemption for other ministries. We have heard that a lot, pretty well every hearing we've had. We are certainly going to address that issue, and I think we'll be able to come up with something to resolve that problem. The other one was the issue of the added time, the 30 days for minor changes, for example. We're also taking a look at that. So we are hearing you, there's no question there.

With the Chair's indulgence, I'd like Diana Dewar to also clarify another issue for you in regard to official plan approvals.

Ms Dewar: On page 3 you made the statement that "the bill provides official plan approval powers to the region of Peel and the region of York even though their official plans are yet to be approved."

Mr Lautenbach: Once they're approved.

Ms Dewar: "...even though their official plans have yet to be approved," right. I just wanted to clarify that subsection 17(3) does provide that that will occur once their plans are approved.

Mr Eddy: But it's not equal treatment.

Mr Lautenbach: My point is that once they're

approved, they get it. We've had an approved official plan since 1978 and we don't have it.

Mr Eddy: It's discriminatory.

The Chair: Very well. Thank you, Mr Lautenbach, for coming and for participating in these hearings.

SAULT STE MARIE BOARD OF EDUCATION

The Chair: We invite the Sault Ste Marie Board of Education, Ms Frances Sowards.

Interjections.

The Chair: I would just ask the members to quiet down, please. Please begin any time.

Mrs Frances Sowards: Please excuse us for bringing our presentation and not sending it in earlier. It was only approved by the board on Tuesday, so we weren't able to get it in earlier.

Mr Chair and committee members, my name is Frances Sowards and I'm vice-chair of the Sault Ste Marie Board of Education. As you can see, our brief is brief, and the board is concerned that the short time lines have made it hard to provide meaningful comment on the final proposed legislation, especially when one considers how long these changes have been under consideration.

We're addressing primarily the local government disclosure of interest act, and with regard to that, our first section, (a), pecuniary interest—do you want me to read this word by word, or shall I—

Mr Grandmaître: It's up to you. Whatever you want.

Mrs Sowards: Okay.

No clear definition is provided for indirect pecuniary interest. Our board is concerned. We would like to know what definition would apply if a trustee was accused of having a conflict, and we would suggest that a definition of indirect pecuniary interest be included in your next revision.

We asked in our submission of November 1990 for some definition of "indirect" as it applied to pecuniary interest. With so many individuals investing in mutual funds, those kinds of things are a great concern, and they don't have any control. I won't go into any greater detail on this because we have a trustee from our board who's addressing that in greater depth individually, but a lot of trustees are quite concerned about the "indirect" provision, which is not defined in the new draft.

Second, a member with a pecuniary interest in any matter must disclose the interest and leave the meeting.

Since the disclosure by the member is made in public, we do not see a need for a person to leave the meeting, just the board table. We would recommend a change in clause 4(1)(d). We think this requirement's overkill, in our view. It removes from the individual the right to have information that's available to the public. The present act provides that in closed meetings the individual should leave the room, and we agree with that. But in public meetings, to retire from the board table into the board gallery we think would protect the rights of the individual to have access to the kind of public information that is being discussed publicly. We think that's going too far.

I guess I didn't make it clear right at the very beginning that the board strongly supports the need for con-

flict-of-interest legislation.

We do think it's a good thing. We think it's needed, and I'm going to refer that personally at the end.

Third, completing a written disclosure as soon as possible after a meeting and filing it with the secretary of the board seems to be an unneeded duplication. We feel an oral declaration is sufficient, if it is recorded in the minutes, disclosing the nature of the conflict.

The first draft seemed to remove the old section 6 requirement to make a record in the minutes. However, we have found there's kind of a watered-down version in section 14. The old section, which was the 1983 legislation, included the requirement to include the general nature of the interest, and we think that's more efficient. The new section 14 doesn't have a requirement to include the general nature of the interest. You just have to make an oral thing and then it's recorded in the minutes. The declaration and the interest are therefore being included in the official documentation of the meeting and it's available under the access-to-information legislation.

We think that's much more efficient than requiring somebody to go down again, after these meetings, sign more forms, fill in more bits of paper, particularly in areas where in northern Ontario you might have to travel some distance to a meeting. If you've got your written disclosure right at the beginning, we think it's stupid and inefficient to have to go back again. It should just be recorded in the minutes, and what your interest is. Perhaps being more efficient precludes it from being left in, but we think the original section 6 is better than the little section 14 where it's just an added thing.

Register of disclosure: The committee felt that the legislation should be patterned after the rules that apply to you guys. For example, forms for all elected officials should be available, perhaps from the same location, which could be the local constituency office. Presently, we think this is more stringent than the requirements for you. I believe I'm correct in saying the requirements are with a commission in Toronto and people have to go get that under certain rules.

For locally elected officials, while we obviously have to accept high standards and public scrutiny, we think we should also have some privacy rights and should be protected from prurient interests, fishing expeditions, irresponsible publications of personal affairs. All forms of disclosure for all elected officials should be available from the same location and under the same rules.

We are obviously supporting that there should be a record of disclosure and we have no problem with that. But it's how people get access to it and how it's used that caused our board quite a lot of concern. Is it fair for local officials to have people walk in off the street, just go through that list, gossip, use it for any kind of information? Our trustees feel that we should have some rights of privacy, and it might be a good idea if all of us, you and us, had the same rules, the same rights of access and the same kind of protection, as we all agree that the public should have this information so they can understand if there's a reason to make an allegation of a conflict.

So we're quite concerned about that, and that's really what (iii) and (iv) say, providing some guarantees. Access to information and the register of disclosures should not be automatic but for a justifiable reason.

On the other side of the page, we've got some other questions and concerns about that legislation. We can't find a definition of an incident of the protocol that normally accompanies the responsibilities of office. In our view, there's obviously different social obligations that are required of different elected officials. For trustees generally it means a small gift if you make a speech, and we get invited to dinners and luncheons, sometimes, of organizations. Is that unreasonable or isn't it? I guess we make a bylaw, do we, and that's acceptable? But what is the protocol? Should there be a definition? It's different for all of us, for trustees and for local officials and for you.

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In the section about pecuniary interest, no definition is provided for agent. Some of our trustees had concerns about that. I'm just presuming that there is a legal definition of agent and it doesn't mean an insurance agent or something like that.

We want to know if the Human Rights Code takes precedence over Bill 163 in all situations, in which case that would affect the access to that disclosure, or should.

A brief comment with regard to the Municipal Act section of Bill 163: We're concerned about no voting in closed session. The committee saw this change, in fact our board—I'm saying the committee there because it's a committee report to our board and we haven't changed the wording. We saw this change as unnecessary to protect the public interest. We feel that the rules should remain as they are now. Boards vote again in open session on any votes taken in closed session. The consensus reached by voting is essential when dealing with matters of personnel and collective bargaining. The proposed act really precludes any voting at all in closed session.

I'd like to speak to that a little more other than in the brief, because we think it's unreasonable and in some circumstances not in the public interest. Presently, decisions reached in closed session have to be ratified in open session, but there are circumstances, and I've been a trustee a long time and I can think of one or two circumstances, when it's not in the public interest to vote for the first time in public session. If you're hiring senior staff, for instance, and there's been quite a lot of heated discussion and some trustees are more interested or have some reservations about an individual candidate, they vote against the candidate, but in the end the other candidate wins. We think it's in the public interest to have a unanimous vote in public to give complete and utter support to the candidate who is chosen, because then the board would obviously support that candidate.

There are matters related to collective bargaining issues that could be quite heated. I've never come across a time when a trustee doesn't want to occasionally stand up and vote against an agreement. They like to make their position quite clear. But if you had a situation where you'd had a very hot issue, and a strike issue, you could be concerned about harassment later. The board frequent-

ly would like to present a united front when they are voting to support a collective agreement.

So we don't think it's in the public interest to preclude all voting in private session, provided the provision is that you should ratify and things have to be done up front in the end and the board is seen to be taking action and everybody knows what the resolution is. I don't know if I make any sense, but we think we do.

Generally, we were concerned about the timing of this input. We didn't have any notice until July. Boards don't operate much in the summer. It's difficult to get people fired up over this kind of an issue. We're quite concerned about that. We think it's been in the making since 1990 and 1991 and it would have been better if we'd had a little bit longer than two or three months to respond.

Basically, though, we do support the changes that affect us as far as the conflict-of-interest legislation is concerned, but we do have very great, serious concerns about the privacy issues, because we don't want to preclude qualified candidates from running.

The Chair: That's it? It's time now for questions.

Mr Wiseman: I guess really the no vote in closed session is where I'll focus in. I think this is a very controversial section, because we've heard from municipalities and school boards that say they don't like it, but we've heard from the public that say they have a right to know and they would like to hear the debate. They would like to be able to say that if a senior administrator is being hired, they should know what's going on. In fact, the parents' council has recommended that there be greater access for the public to be involved in the hirings and goings on in the schools.

So we have an opportunity here to open the process up so the public can have greater participation. If there's any bias that I have in this, it's that we have far too many things being done behind closed doors and we need to have them out in the public.

Mr Eddy: That's at Queen's Park.

Mr Wiseman: In the Liberal caucus, I guess, maybe.

I guess the point that I'm making here is that if there is a debate and you come back into open council and it's just a ratification vote in open council, when do the public get an opportunity to know what the debate was all about? Where do they get access to this? If it comes out and everybody agrees, it can be done like that and it's gone, through. Where's the opportunity for the public input?

Mrs Sowards: I agree with that point of view if you take it as a given that every board and council does that and does a lot of discussion in private and then just ratifies. I'm talking about, and perhaps we should have made it more clear, there are certain things we are all allowed and expected to deal with in closed session according to the Education Act and the proposed legislation seems to deal with personnel, litigation and those kinds of things.

Surely in your own view too there are certain things that you just don't talk about in public. Otherwise you're going to be liable to the kinds of accusations of violating people's privacy, which you know about. Those kinds of

things we have to be very careful about.

I do agree that if we need to involve the public, and I understand, our board understands, the requirements for involving the public, if one were going to do that, then one would involve, say, your parents in the screening and the process of developing criteria for the kind of people you want to hire, which we are doing now. But when you actually get into the interviewing and into the final decision process, then you have to have some privacy for the protection of your candidates.

You have to make this balance, and this is what you're trying to do, I expect, make the balance between the rights of the public to be involved and knowledgeable and provide input and the rights of individuals and the rights of the legal process to have some things that are delicate and shouldn't be in the public domain not done in the public domain.

You can have, and we have frequently at our board, heated discussions about negotiations and stuff. We'll do it all over again quite frequently, or occasionally our chair or some of our trustees will say: "Now, just a minute. We don't need to discuss this in closed session, we can do it in public."

What we're talking about is not being allowed to vote in certain circumstances when we think it would be more in the public interest, and those circumstances are the ones I've told you about.

This has happened to our board, and this was in the 1970s. Processes for choosing candidates for situations were not so sophisticated as they are now and it was very heated. A particular candidate made it by a short number of votes for a very high position with our board. Now, we didn't think it would be in that person's interest for them to know that the board was divided about their appointment or the public to know that the board was divided about their appointment. That doesn't lead to confidence in the system or the leadership.

Those are the kinds of things. So you're precluding it completely, but I do understand—

Mr Wiseman: Let me give you an example of what our board did. Our board changed the entire busing and kindergarten policy through the transportation committee that was not open to the public.

Mrs Swards: Well, it should have been. All committees are.

Mr Wiseman: Then it came to council and it was passed just like that. When the public found out about it in the schools that did not have busing and should not have been affected by this, they were out of the process. They were out of the information loop and it was done and—

Mrs Swards: Well, that's bad practice, if I may say so. I don't think it's necessary to hit everybody with a heavy hammer because one or two boards or places operate ineffectively.

Mr Wiseman: It's not just one. We're hearing it across—we heard from people in Peterborough, a local councillor who thought that the section you disagree with in terms of leaving council was the appropriate way to go so there could be no subtle body language influences on

what the other councillors were going to do, or that there could be no debate.

The Chair: Mr Wiseman, sorry. We're running out of time.

Mr Wiseman: I'm just saying that we're hearing extremes from the public. They're very cynical.

Mrs Swards: I understand that. People are cynical. We feel that too. I mean, we'll all up for election this November. But it's a balance, and our board feels there are circumstances when it's not in the interests for some things to be discussed in public.

Mr Grandmaitre: Thank you for your submission. I do agree with a few of your remarks, but I question others. For instance, I agree with you that this is a very important bill. This is an omnibus bill, as you know, which amends a number of statutes, and we should be working with definitions and also regulations. But these definitions and regulations are not available. They will be available at the time of third reading only. It makes it very difficult for this committee to draw real conclusions.

1050

If I may quote you, "Since the disclosure by the member is made in public, we do not see a need for the person to leave the meeting." I don't agree with you. I'd like you to—

Mrs Swards: In a public meeting.

Mr Grandmaitre: In a public meeting.

Mrs Swards: We have found it satisfactory. Pushing back from the table I agree is not appropriate. We expect our trustees to leave and go and sit in the gallery.

Mr Grandmaitre: In the gallery?

Mrs Swards: In the gallery.

Mr Grandmaitre: Not leave the room?

Mrs Swards: In public session, in open session. Of course, in closed session, and that's what we've said here, obviously they leave the room. That's not an argument. It's in public session. We feel they're entitled to the same kind of information that any member of the public or the media is entitled to, and you're in fact precluding them from having that.

In our experience, and of course I suppose it might be different for council and so on, I think it would be extremely difficult for anybody to make signals from the gallery on an issue. Certainly—

Mr Grandmaitre: You never know.

Mrs Swards: I suppose, but then you can be paranoid about anything, can't you? As far as boards of education are concerned, I don't think it's an issue. The conflict tends to be with regard to relatives who are teachers in negotiations. Frequently, they like to leave the room when they're bored by it and they go.

Mr Grandmaitre: That's right, and sometimes they leave the room for the simple reason that they don't want to vote on that item. I've seen that.

Mrs Swards: Yes, that does happen. But generally—

Mr Grandmaitre: You also say that you feel an oral declaration is sufficient if it is recorded in the minutes. Then you go on to say that, "It is important to note that

if a mistake is made and you disclose more than you legally need to, it is there on file for anyone who wants to see it." If I may turn the page, you say that these declarations, just like MPPs', should be in our local constituency office. Well, no, our declarations are not—

Mrs Sowards: I know they're not.

Mr Grandmaître: They're not in our local constituency office.

Mrs Sowards: The wording of that—the committee intended that in the new way that they should be available locally, yours should be too. But certainly it should be consistent between the two for elected officials, and if people can walk in and see them—

Mr Grandmaître: One last question.

The Chair: Very briefly.

Mr Grandmaître: On page 2—"Does the Human Rights Code take precedence over Bill 163?"—what do you mean by the Human Rights Code?

Mrs Sowards: I think the trustee who was concerned about this was talking about access and privacy or human rights, those kinds of things.

Mr McLean: I would like to put a little different question. I'm curious, and I've been curious a long time about this: If your spouse was a school teacher, would you have a conflict in any way as chair of the board?

Mrs Sowards: Any trustee would have a conflict, yes. Presently, if any relative is, your children, all those kinds of things.

Mr Grandmaître: Do you think they should be allowed to run?

Mr McLean: Would you have to declare that conflict at every meeting?

Mrs Sowards: Absolutely. Existing legislation provides for that. In fact, it's very sweeping. I think that's why you had to change the quorum thing, because frequently you get everybody leaving. On some boards it's been quite hard, especially in small communities.

Mr McLean: So you're saying to me, in this committee, that any member of your board who has a spouse who is in the classroom, or a teacher, would have to declare a conflict of interest.

Mrs Sowards: Absolutely. They do now. That's the existing requirement. It's very stringent.

Mr Wiseman: On issues related to negotiation of contracts.

Mrs Sowards: Yes, anything related to those kinds of things, pecuniary issues, and we take negotiations as being pecuniary because you're dealing with wage levels and so on.

Mr McLean: Most things that deal with the board would have an effect on the teachers somewhere along the line.

Mrs Sowards: Yes, it's generally taken—I think the interpretation of most trustees and the ones who've been in those positions presumably go and get their own advice—that if your spouse is going to be affected in a monetary way, if they're dealing with leaves and things like that—we haven't had too many of those because we

don't have many who have spouses who work in our system; they tend to work in the other system—they still declare a conflict because it's in the same community and it has an effect. But they leave for things like leaves and things that directly affect their spouse.

Mr McLean: The final question I have—and my colleague may have a question—is the closed vote. You say it would make for more harmony and it would be better if they knew how they were going to vote and then come out and support it.

Mrs Sowards: I don't think I said that. I said in certain circumstances it's in the public interest not to forbid people to vote.

Mr McLean: I think what I was hearing was the fact that if you were hiring a senior administrator and there were two or three or four who applied for the job, you think there should be a vote before in committee of the whole, or in camera, and then go out and everybody would vote unanimously because they approved of this individual?

Mrs Sowards: That's what usually happens because it's treated as a personnel item and you discuss the individual who's come to the top or the two individuals who've come to the top. Usually what happens is that a committee or whatever your process is makes a recommendation to the board and the board discusses and asks questions perhaps about individuals and so on, those kinds of things.

If it's heated—in particular, I would think of a CEO or those kinds of things—it can sometimes be close between two candidates. Those are the kinds of issues I'm talking about. Those are the only kinds that I've come across in my experience, that one on one occasion when we have felt it was in everybody's interests to then make sure the public and all the teachers and the candidate knew they had the confidence of the board because everyone had supported them. They didn't know that it had been hot and heavy and it was a very narrow thing that they got that job.

Mr McLean: Well, I think the public should know. I think that the public should know what's gone on. If some of them don't approve 100%, that should be known. I don't think that candidate should believe that he had the full, unanimous support of every member. That's my opinion.

Mrs Sowards: Well, it is a personal thing, I suppose.

The Chair: Thank you very much, Mrs Sowards, for coming and for sharing your views with us today.

DON EDWARDS

The Chair: Is Mr Don Edwards here? Mr Edwards, please.

Mr Don Edwards: I thought Donna Bryce was going to hand these out.

The Chair: Please pass it on to Mr Johnson and he will pass it on to us.

Mr Edwards: I'll give you a moment to pass those around. Since you didn't have a chance to see it in advance, I will go through it, as I have it written, and perhaps make some comments that may not be on there.

I thank you for the opportunity to share some of my concerns about proposed Bill 163. Let me make it very clear that I am speaking only for myself as a municipally elected school board trustee. This is my ninth consecutive year as a trustee on the Sault Ste Marie public school board.

My concerns about proposed Bill 163 will deal mainly with part II, schedule B, specifically the Local Government Disclosure of Interest Act, 1994. Let me state first of all that I think all elected officials should be accountable to the public. I do not have a problem with disclosure of my personal assets. What concerns me is how the private information that I have to supply will be used, or rather misused.

When any citizen, elected or not, is required to provide information of a personal nature, some safeguards should be provided that the information will not be misused. The information that all elected officials have to supply will not be protected, in my opinion, under this proposed bill.

The information is supposed to show accountability and should only be given out to the public when there is a justifiable reason to question the accountability of the one who supplied that information. I see no such safeguards in this proposed legislation. In my opinion, this bill comes very close to violating my rights as a citizen under the Human Rights Code and also the freedom of information act that should guard such personal information.

1100

The Ontario government has always shown a high regard for the protection of citizens' rights and has always respected and guarded the private financial information of Ontario residents. I give you the examples of membership in numbered companies and/or generic name companies.

Disclosure of pecuniary interest is based on the member's prior knowledge. I refer you to page 89, clauses (b), (c) and (d), and you're well aware of them. I ask you, honestly, in a court of law, who is going to believe that an elected member pleads ignorance? It will be very easy to trap an elected official who honestly did not know. I refer you to the recent Martel case.

When I look at the definition of "pecuniary interest," especially the lack of definition of "indirect pecuniary interest"—that's the indirect pecuniary interest that could cause an elected official the problems—I see the same lack of clarity that was in the 1990 declaration of conflict act. There will be many grey areas when an elected official could easily fail to declare but later be charged with a violation. Let me give you some examples of this.

My wife and I have invested some of our retirement savings in mutual funds. That's not an uncommon thing to do today. We have no idea where those funds are loaned out. It is conceivable that I could be dealing, at a board meeting, with a company that earns me a profit and failure to declare could be a violation and cost me my elected position.

Another example, one that came up on our board recently, was selling a piece of land to a generic name company that was the successful bidder. There wasn't one

trustee on our board who declared a conflict, because we did not know who the members of the company were. It is possible that one of my four brothers could have been a part of that company. In my estimation, that would have been a conflict for me.

When a charge is laid, it could easily be that my definition of "pecuniary interest" and that of the courts could convict me.

Under this proposed bill, when a commissioner brings a case to court, all costs of the one who makes the charge are paid by the commissioner's office but all costs of an unproven case are picked up by the board or council of the elected member. Why not let the courts decide all court costs? This may avoid frivolous charges.

This proposed bill will present procedural problems for any board or council. For example, the ban on any votes in closed session could cause votes in open sessions after all visitors, including the media, have left the meeting, and I know that happens. That's not what the intent was. The intent was that the public would know.

Our board has closed sessions before open sessions. I see nothing wrong with taking a vote in closed session followed by another vote in open session when the public is present. Few boards and councils do it this way. When are votes taken after the open session is over and everyone except members are gone and closed sessions are then started?

The quorum minimum of one third, which is part of the municipal changes, will cause unnecessary delays if any council or board is reduced to less than one third because of pecuniary interest declarations. The commissioner's approval will be needed. Fortunately for our board that hasn't happened and I don't anticipate it will, but I know of another board in Sault Ste Marie, the separate board, where it has happened and will continue to happen because of some of the reasons you just mentioned about having spouses who are working for the board. I'll get into that later, maybe, if you ask me.

I am also concerned that a considerable amount of time and work will have to be done by our director's office, and in case of councils, the city clerk's office, to take, record and store all financial disclosures, oral and written declarations and supply them to the public when they are requested. This comes at a time when our board is trying to reduce the time and money of administrative staff. Perhaps the commissioner's office should do this work, since that office would have to access all that information on a complaint.

At the present time, when a trustee on our board makes a declaration of conflict, he or she must always state the reason and it is noted in our minutes. What is the necessity of a written declaration, and why should a member leave the room in a public session where it can be seen by everyone that the member has not participated in the discussion?

In terms of the gifts, it will be very difficult for a trustee to determine when a gift is part of protocol when there is a lack of clear definition. Again, the grey areas could cause a court case when definitions differ. If my definition of protocol and a gift differs from the court's

when I'm in court, I could be convicted for it.

Let me give you one quick example of that. I have a personal thing on our board that when any organization, such as a teacher's organization, invites me to dinner, I personally ask them the price of the dinner and I give it to them in pay. If I'm not part of the dinner—often they do that—it's very difficult to be negotiating with a team today and then tomorrow be invited to a free dinner for them. I do that as a personal thing on my side because I think that's a conflict. Not all my trustees agree with me, but I do that on a personal basis.

The proposed bill says that a board or council "may" take insurance for its members. Rest assured that I will be bringing a resolution to our board to obtain that insurance. That may be costly. I have no guarantee that the Ministry of Education will give grants to cover this cost, so the local taxpayers of Sault Ste Marie will have to pick up the bill. It is too costly for me and any trustee to pay the costs of unfounded charges that could be laid.

In summary, a renewed look at the conflict of interest act of 1990 and improving it could have avoided the need for extensive legislation such as Bill 163. This bill will set up an unneeded bureaucracy of a commissioner and subcommissioners in all regions to try to handle problems that I tell you do not now exist. There are very few violations with the conflict of interest act of 1990.

I ask you, who is going to pay the cost for the administration of this act?

Let me get on to numbered companies for a minute. Since numbered companies and/or generic name companies are allowed in Ontario and that could cause unknowing violations for trustees, such as I've mentioned to you, is the government going to take a look at this problem?

Taking this bill to committee with responses asked for during the summer months definitely shortened the list of trustees who may have wanted to respond. Many elected officials will be caught off guard without changes in this proposed bill.

Thank you very much for listening, and I will attempt to answer any questions that may have arisen from my presentation.

Mr Curling: The concerns that you raise have been reflected quite often by other people too, about the conflict situation. I want to ask this question: How far do you think that it should go in a family disclosing its assets? I mean your wife or your brother or your brother's wife or your brother's wife's children. Who should declare a conflict?

Mr Edwards: First of all, I have got to share this with you. I did read Bill 163 quite a few times, rather extensively. I thought it rather humorous that I could say that I don't have a spouse, but if I say I don't have a spouse, then my spouse's assets are mine. I thought that was rather humorous in a way, really. I'm not afraid to tell you I have a spouse, I'm not afraid to tell you my spouse's assets and I'm not afraid to tell you any assets of my children. I'm not afraid to disclose any of this, but I do have a very grave concern with what you do with that information I give you.

Mr Curling: And that's immediate, but I'm saying beyond that: If you decide to go into public life, and your brother's wife is not concerned about whatever you do with your life—

Mr Edwards: Why not? If my brother has investments in a firm that deals with my board and I vote for that resolution, in my estimation that's a conflict.

Mr McLean: I thank you for your presentation. It's very clear, and many have been saying the same thing as what you're saying, that access to information in the registry of disclosure should not be automatic but should be for a justifiable reason.

Mr Edwards: I'd give it to you.

Mr McLean: I think of the Manitoba model, and what I've heard is that it's enclosed and nobody can see that until there has been a charge or a complaint laid against an individual, and then it's not there for the public to see it.

Mr Edwards: I watched that on TV the other day and I have to agree with you. That's some possible safeguard you could put in there for what information I give you.

1110

Mr McLean: The other thing that's very clear, coming across in pretty near every delegation, is a member leave the room in a public session where it can be seen that the member has not participated in the discussion. It just seems foolish that he would have to do that. It's recorded that he said he has a conflict, and filling a form out after—I know some councillors have to declare a conflict every meeting. Are they going to fill a form out after every meeting to say what their conflict is? It just seems too much.

Mr Edwards: I attended a council meeting on this very same thing and one thing came up in council. I'll share it with you very briefly. One council member said that if they had a piece of property they wanted to sever, they could not attend the council meeting nor have a representative represent them under your bill, under Bill 163.

Mr McLean: Thank you for taking the time to come this morning.

Mr Perruzza: I just want to get a sense of how many trustees on your board declare conflicts, and how frequently do they declare conflicts, and what kinds of conflicts are they?

Mr Edwards: On our board, very few. We have one trustee who regularly declares a conflict in transportation items because her husband drives a bus for Charterways, and so she regularly declares a conflict. The vice-chair that you heard declares a conflict on negotiation items because her son teaches in Thunder Bay. That's rather remote, but she feels that it's a conflict.

I've declared a conflict once in nine years and I have to question even why I did that, although my sister was a teacher who was retiring and there was money involved, and I said, "I'm not going to participate in this discussion." I couldn't have done anything about it. She worked for the board for 35 years and she was entitled to her retirement.

But there aren't that many, and our trustees are very, very open with any possibility of a conflict. I'm really worried about our trustees getting trapped into not declaring a conflict, even with legal advice, and then finding out later that the commissioner said it was a conflict and the court said it was a conflict and they could lose their seat.

Mr Perruzza: Two more questions.

The Chair: We don't have time for two, unless you roll them up very quickly. Go ahead.

Mr Perruzza: I was going to ask, has anybody ever been embroiled in a conflict situation? And you mentioned earlier that you would be bringing the resolution to the board wherein you would request that a fund be set up should such situations arise. That fund would pick up the costs, I guess, of frivolous accusations against one of the board members.

Mr Edwards: That's what the bill says, if the charge is unfounded, yes; the board has to pay it. I mean, why wouldn't they carry insurance on it?

Mr Hayes: On the issue of open meetings, the school board does not fall under this act as far as the open meetings go because you fall under the Education Act. When we talk about the definition of a local board, "local board" means a local board as defined in the Municipal Affairs Act, except municipal police services boards, library boards and school boards." I just wanted to point that out to you.

Mr Edwards: Are you telling me that the item on closed meeting votes is not applicable to the board?

Mr Hayes: I'll let one of the staff respond to that so you'll get the clarification.

Ms Patricia Myatt: My name is Patricia Myatt. I'm with the Ministry of Municipal Affairs.

The provisions in Bill 163 regarding open meetings do not apply to school boards, so whatever provisions you currently have under the Education Act regarding your conduct at meetings are what you will have to follow.

Mr Edwards: I'll bring that information back to the board.

Mr Grandmaitre: Mr Chair, some clarification? What does the Education Act say?

Ms Myatt: I can provide you a copy of the sections. I don't know off the top of my head, but we can get you a copy.

Mr Edwards: The reason I brought that up is I know many boards, including our council—and I'm not speaking out of turn when I say that our council has its meetings open right up to the end and then they say, "Now we will go into caucus on several items": personnel, money, whatever. My question is, when do they vote that in open session?

Mr Eddy: Do they meet in open session after, do you know?

Mr Edwards: According to the act, they can call an open session and hold votes on it, but nobody's going to be there; they've all gone home.

Mr Eddy: That's amazing. That's a presage right there.

Mr McLean: Section 6 of the act spells it out. It's on page 93 of the bill. It spells it out there.

Mr Edwards: It's one of the reasons why our board changed and had their closed sessions first and their open sessions later. It also shortened our meetings.

The Chair: Mr Edwards, we've run out of time. We thank you for the personal interest you've taken in this bill and thank you for communicating your views with us.

Mr Edwards: Thank you for the invitation.

TOWN OF PARRY SOUND

The Chair: Mayor Nancy Cunningham?

Mrs Nancy Cunningham: Yes, thank you.

The Chair: Welcome to this committee.

Mr Perruzza: Mr Chairman, how are you going to proceed with the rest of the agenda?

The Chair: We allowed Mr Edwards to go in advance of Mrs Cunningham, given she wasn't here at the time.

Mr Perruzza: Okay, she gets a half-hour?

The Chair: Exactly, yes.

Mrs Cunningham: I apologize. There's been a mixup in communications. My information was that I was to appear at 11:30, so I am here prior to my appointment.

The Chair: Do you have a brief to give us?

Mrs Cunningham: I do. How many copies?

The Chair: I suggest you pass them all around, and if there are not enough, we'll share.

Mrs Cunningham: I appreciate this opportunity to address you and hope my thoughts will come through clearly.

Generally speaking, I think municipal elected officials agree with the objectives of parts II and IV of the legislation, Bill 163. Those are the parts I am here to address today.

Open meetings of council committee have been in place for several years in the town of Parry Sound and in many other municipalities. The need for some form of monitoring to assure that the influence of a council or staff member has over municipal decisions not be used for personal benefit I think is widely recognized. However, having said this, I do have a number of areas of concern, and these concerns are shared with members of my council and members of our district municipal association.

We submit that it's politics at its worst to present a total of 19 separate acts under one bill. Those relating to planning, to disclosure of interest, to open meetings and to disposal of property have been the object of intense debate and they affect every municipality and every municipal politician in Ontario. By calling for only one vote on these four major topics, it says that municipal matters are unimportant and the province has no respect for us, for our level of government.

Under sections 21 and 22, I have a concern with the legislative process outlined, or perhaps I should say it's legislative nonprocess. It outlines how the Lieutenant Governor in Council may make regulations prescribing financial disclosure and duties of the commissioner and

the boards, agencies, corporations and other entities or classes of them to which this act applies.

This makes it—it's not definite, it's not restrictive. Proposed limitations are provided for in form 1, disclosure of financial information, but the form is prescribed by regulations and it's my understanding that regulations may be changed by the government of the day without reference to debate in the Legislature.

There is nothing to prevent a future government requiring specific financial information, dollar amounts, for ownership or mortgage interests, business interests, equity and bonds. I feel the form provided just sort of lulls people into acceptance if they don't realize the difference between regulations and legislation, and most of us, being municipal politicians, don't realize that difference. There will be no opportunity at the time of change to object to the requirement for more specific financial information.

1120

We request that the legislation be changed to limit the information that must be disclosed to identification and description of financial interests and income sources as required on the form circulated. That's what we're led to expect and I think that's what should be outlined in legislation so that it's set.

In addition, the act states that other "entities" to which this legislation applies may be added by regulation. It's difficult to imagine what these entities might be, but we request that the legislation specifically exclude advisers and advisory committees, as the people, by definition, who belong to these groups are likely in many cases to be professionals, to have to declare an interest and withdraw, and these are the people we rely on for advice. So we're going to have worse decisions at the municipal level as a result of having to have our most informed people withdraw from discussion.

Under section 15, the disclosure of financial information, pecuniary interest and gifts received, they will be kept in a register which will be inspected by the public, and copies of this information may be obtained upon request. The ability of any member of the public, some of whom have limitless time at their disposal and a desire to trap a specific councillor or board member—you only have to be a little aware. I'm sure you have the same thing in provincial politics, but we're much closer to it at the municipal level, and there are definitely some people out there who enjoy following and harassing certain council members.

These people will, with no restriction at all, be able to peruse, photocopy, take home, study, call groups in to pore over the disclosure or lack of disclosure by some of their municipal representatives. I would say 99% of those representatives have the best of intentions and wish to disclose all that is required of them, but all of us overlook things that we should do.

So we request that application to check the disclosure records be required to be made through a municipal staff member who will then provide the information requested and keep a register of the requests as well.

The provision for not being found guilty by way of

inadvertence has been removed from this act. It was previously to be found in the Municipal Conflict of Interest Act, subsection 10(2). The provision of inadvertence acknowledges a fact of the human condition: We're not robots. We may fully intend to do something. We can't be programmed like machines, and we often overlook things. Even machines break down. I think there should be some room for judgement to be allowed as a person is being judged. So we request that inadvertence and error in judgement continue to be recognized as valid findings under the new act.

We also request that there be a provision made to immediately notify any member who is under investigation. I don't see that covered in the act.

We note that investigation by a commissioner can take as long as six months and will be added stress to what is occasioned by a court hearing, which they may have to go through, as well as the investigation by the commissioner.

I myself have been the subject of a lawsuit for the past three years because of my municipal actions, and it doesn't appear to be any closer to being resolved than it was three years ago. It is a stressful situation and one that I don't believe provincial members have to go through to the same extent.

We note and object to the additional financial burden placed on municipalities charged with keeping the register, paying the staff people and paying the costs of the commissioner.

Regarding the Municipal Act, while MLAs are protected by absolute privilege, municipal council members have the lesser protection of qualified privilege. We brush shoulders with our constituents daily as they function in their political lives. Partly because of this proximity, municipal politicians are at greater risk of being sued than their counterparts in the Legislature, so we strongly request that MLAs who have the power to extend protection equal to their own to municipal politicians accord us the respect of providing us with absolute privilege as well.

We are concerned that social occasions such as barbecues, picnics or relaxing over coffee before or after a formal meeting will be regarded as meeting in secret. In fact, our experience has been, unfortunately, that opening our meetings to the public has not caused a decrease in the public perception that we meet behind closed doors. Despite our rigid adherence to the rules allowing in camera proceedings, we're still the object of media attention and personal attention from people who feel we're continuing to meet behind closed doors. So although the aim is good, the object is not always met.

We're concerned that not permitting votes while in in camera settings will result in tying the hands of council so they're unable to properly direct staff on legal matters without giving a hint of these matters to the public and causing breach of the freedom of information and protection of privacy rules. In fact, open votes that are not clearly worked—"clearly worked"; that doesn't make sense, nor do my original notes—will continue to leave council members open to the charge they are trying to mislead the public.

Interjections.

Mrs Cunningham: You got me. I can't think at this point. What you add in I'm sure will be more coherent than I am.

Mr Grandmaître: Clearly voted on?

The Chair: Not recorded?

Interjection.

The Chair: I would move on, Mrs Cunningham. Not to worry.

Mrs Cunningham: In summary, we are concerned that with the increasing tendency of the public to litigate against council and board members, this legislation will cause people not to stand for these offices. This is particularly true for those who serve without pay on some of the boards out of a sense of civic responsibility.

Council and board work becomes more complex and time-consuming yearly. We are sure the provincial government wishes to encourage rather than discourage participation at the local level, and we believe the issues raised in this presentation must be addressed before Bill 163 is passed in order not to discourage participation by good people.

Mr McLean: Welcome to the committee, Mrs Cunningham. The drive from Parry Sound this morning I'm sure would be relaxing.

Mrs Cunningham: It would have been if I hadn't been sort of late getting this together.

Mr McLean: Anyhow, you talked about the regulations. I asked the very first day of these hearings about regulations, and they tell us that they're being done; they're not completed yet. They won't be completed until the bill is passed. They'll be passed at the same time, apparently, so we have some concern with that too, because you're very clear that you can change any bill with a regulation and make it something that it's not.

We're also looking for some amendments that may be coming from the government and we're not sure what they are yet or how many. It would have been nice if we'd had them so that we could have had input from the deputations that have been coming before us.

A lot of the deputations are very much similar, and I'm curious to know what the government's going to do with this bill, because I dare say that 70% to 80% of people coming before us oppose the bill. There are some who will have some minor change they would like to see, but for the most part the wardens and the municipal people really seem to be opposed to it. So it will be interesting to see what happens. I just think it's great that you took the time to come because I think it's important that they know what your municipality feels about it.

Under the Planning Act, do you have an official plan approved in Parry Sound?

Mrs Cunningham: Yes, we do.

Mr McLean: Are you looking for—well, you can't get approval authorities as a city.

Mrs Cunningham: We can't, but we have—I didn't address that section of this, but since we have a professional planner on staff, we have asked if we can be recognized.

Mr McLean: That's good, and you haven't had any word from them? Are they looking favourably upon you?

Mrs Cunningham: I haven't heard any wild cheering in the municipal office, so I gather that no, we haven't heard from them.

Mr McLean: Thank you for coming before us. Dave?

Mr David Johnson: Well, I'd like to thank you as well, and perhaps identify to some degree with your statement at the beginning that there are a number of major topics that are being crammed together, and that shows, you say, no respect for the level of government that I represented for many years in the borough of East York, and I'm very proud to have represented it. Even Bill 120 was another acknowledgement of that lack of respect for municipal concerns. Anyway, we won't talk about Bill 120 today.

1130

You raise grave concerns about how the information may be available to the public and the fact that there are people who have time on their hands and who would certainly go in, photocopy, get the information, have groups pour over the information and use it for whatever purposes.

My colleague Mr McLean has recommended we look at the Manitoba formula, the Manitoba procedure, whereby this information is only available, as I understand it—this is only my second day on the committee—if there is a complaint, and other than that, you couldn't see the information, so you'd have to register a complaint. Is that the kind of thing that you think would be perhaps a step in the right direction?

Mrs Cunningham: That certainly would bear looking at. I think there are a number of ways in which there could be some, you know, not barriers but a process to go through, and perhaps also have the person making the inquiry identified and his name or her name preserved so that there's perhaps a better understanding of why the inquiry is made, who's following through on this on the part of the municipal politicians. It seems to start with the premise that we're all trying to bilk the system, and 99% of us aren't, even though we recognize that the situations that are being addressed do need addressing. We just don't want to put the clamps on so strong that municipal politicians can't move any more.

Mr Wiseman: I'd like to go back to your section on inadvertence. In the act, it says that the commissioner, upon application, may conduct an investigation.

Mrs Cunningham: Yes.

Mr Wiseman: Then it says that upon the completion of the investigation, the commissioner can apply to the courts. Then it says in subsection 8(12) that, "Despite subsection (10), no person other than the commissioner shall make an application to the court unless the person has submitted an application to the commissioner under subsection (1)..." and there are some rules there.

Now, it seems to me that the legislation says that I just can't say that you have a conflict of interest and take you to court unless there's a 180-day expiration, and then—this is protection for you—the commissioner has to do an investigation. If the commissioner decides that he isn't

going to move on it, then it seems to me that any person in the public would have very serious difficulty trying to get any kind of judgement in the courts. In fact, we heard from a person who's done some work on conflict of interest that they feel that this section is really a protection section.

Then the other part of this section is the power of the court. Right now, as I understand it—and I stand to be corrected—you are either guilty or you're not guilty. There are no strata, there's no striation, there are no levels. I mean, you could have done something inadvertently, and either you're guilty and you're punished to the maximum or you're not punished at all. So this would allow for some variations in between.

Mrs Cunningham: May I address that?

Mr Wiseman: Yes, that's it.

Mr Perruzza: In politics there's no middle-of-the-road punishment, is there?

Mrs Cunningham: Well, yes, there is, under the present Municipal Conflict of Interest Act. It allows the judge to make a finding of inadvertence and to not make the penalties descend upon the person, because in good faith they overlooked it or in good faith they thought they had received proper advice, as Shelley Martel did recently. She was still castigated in the media, but that doesn't mean she didn't act in good faith, in my view. I think that finding needs to be open to the people who are listening to us.

Mr Wiseman: I think I'd like to hear, if possible, because I think—and maybe I didn't do a very good job on that—it's a good section.

Ms Myatt: My name is Patricia Myatt. I'm with the Ministry of Municipal Affairs. I guess the idea behind this section is, as you know, right now there are the inadvertence and bona fide error provisions, and there's been some concern that the courts have used that quite often and found someone guilty of an offence but because of the reason there was no penalty at all.

The provisions in the new act provide a range of penalties, the first being that if the person is found guilty, the court shall suspend the member for up to 90 days. If it's felt that it wasn't a severe contravention of the legislation, the judge could decide to suspend the member for one day. So, instead of saying, "Look, you were found guilty, but there's no penalty," this way they could be found guilty with a limited type of penalty. While it's left up to the court to decide, of course, that does leave room for discretion.

Interjection: So there's still discretion.

Ms Myatt: It changes the way it goes.

The Chair: If you ask your question, Mr Perruzza won't have any time. It's up to you.

Mrs Cunningham: May I respond to—sorry, I didn't catch your name.

The Chair: Ms Myatt is her name.

Mrs Cunningham: You will only remember a year after the event that the person was found guilty; you won't remember the reasons. Just like somebody who graduates from high school, it doesn't matter whether

they're the top of their class or bottom, they've graduated.

Mr Perruzza: The headline was, "Guilty."

Mrs Cunningham: Yes, that's right.

Mr Perruzza: That's what's produced and spread around.

Mrs Cunningham: That's right, and that's my concern.

Mr Wiseman: I think the commissioner, if they've ruled that there was no conflict—

The Chair: Mr Wiseman, there's one minute left.

Mrs Cunningham: I think you have faith in the courts; I do as well.

Mr Perruzza: Let them go ahead.

The Chair: Any further comments? There are about 35 seconds left.

Mrs Cunningham: I would like to say that a judge has the experience every day of making decisions like this. The commissioner may be a judge and may have that experience, but he may not either. He may be like you and me. Maybe you're a judge, I don't know.

Mr Curling: Your worship, thank you for your presentation. Regardless of how you felt, it was a very good presentation.

Mrs Cunningham: Thank you.

Mr Curling: The concern that you raised at the beginning is a concern of many people. This is a very major piece of legislation that is attempted by this government. This omnibus bill, this attempt to do this, is almost disgraceful in the sense that we're hearing your concern, and that is why maybe you have limited yourself to just one of the sections of all this. So we agree with you and so have many, many people who have come before us that this should never be an omnibus bill, but we know the situation behind this is to hide things, to ram it through in that process.

Mr Wiseman: That's what you guys did on us.

Mr Curling: Give me my time, Mr Wiseman, could you, please.

Mr Wiseman: Sorry.

Mr Curling: The situation here is that they are putting themselves in this time frame, that this should be completed by December. Do you feel that this large bill, which of course leaves most of it to regulations which we haven't seen and will not see before that, the "trust me" situation, that we can complete this bill by December, have it as law by December?

Mrs Cunningham: It's very difficult to display that trust in a government that is not trusting us.

Mr Grandmaître: That's a great quote.

Mr Curling: Do you feel it would be very helpful to have those regulations before you, seeing, for instance, that it was the Sewell report itself that had recommended to this government and tried itself in a way to interpret this policy, and then we get legislation that does not reflect this? Do you feel too that if you had the regulations it could be helpful in getting them back on track?

Mrs Cunningham: It would be very helpful. At the

same time, since regulations can be changed without debate in the Legislature, it's still a concern, because the regulation we have before us, even in its final form today, will not necessarily be the same that's there next year or five years from now.

Mr Curling: In that, you may have answered my question that what may appear in this regulation should be in the legislation.

Mrs Cunningham: That's correct. That's my point.

Mr Curling: Then maybe I could ask the Chairman, or maybe the parliamentary assistant, who has the ears of the government—he doesn't get into cabinet, but he has the ears of the minister—will there be changes in the sense that the regulations that you are depending so much on, that most of those things that you were putting in a few years ago appear in amendments and we've got it in the legislation?

Mr Hayes: Thank you very much, Mr Curling, and I certainly appreciate your support. I have had to say similar words at just about every meeting because some members don't seem to grasp it.

Mr Grandmaître: We still don't trust the government.

Mr Hayes: I'm very sorry if you don't trust me. However, the worst thing a politician can say is, "Trust me," so I'm not going to do that, but I will do the best I can with the resources that I have to do it for the benefit of the people.

This question has come up so many times about the regulations prior to legislation. It doesn't work that way, and it has never, ever worked that way, where you'd have the regulations prior to the legislation. You have the legislation, then the regulations. But what we are doing here, what no one else has ever done before, is that we will have the legislation at the time—

Mr Grandmaître: On third reading.

Mr Hayes: —of third reading. No other government has ever, ever done it in any other way.

Mr Eddy: But the imposition of policies—

Mr Hayes: If I may finish, the point is that we do have an implementation task force which consists of people from AMO, people from the Ontario Home Builders' Association, environmentalists.

Mrs Cunningham: With respect, implementation is after the event.

Mr Hayes: Excuse me, we're not disputing that at all, but what I'm saying here is, how can you have legislation and have the regulations before? You have to have legislation to work with.

Mrs Cunningham: That's not my major point. My major point is that the controls be in the legislation as opposed to leaving it to regulation.

Mr Eddy: That's a good point.

Mr Hayes: It's just not the way that it ever has worked, and for members to sit here and pretend—

Mrs Cunningham: Oh, but it is.

Mr Hayes: No, no, I'm sorry. The fact of the matter is that we will progress more in line with the legislation

than has ever been done before. Any piece of legislation that has been passed in this province in the past, the regulations have come way after the legislation. This here is going to be closer, okay? I'm just telling you how it has worked. For members to sit here and say that we have to have the regulations at the same time as legislation, other governments have not done that until well after the legislation has been passed.

The Chair: Mr Hayes, you've made your point. I'm sorry, we went way over time. Was there anything else, Mr Hayes? Very well. Mrs Cunningham, we thank you very much for coming and thank you for participating in these hearings.

The Chair: This committee is recessed until 2 o'clock.

The committee recessed from 1143 to 1402.

Mr Curling: Mr Chairman, before we start, I just want to make a quick point here. There are some people from the unorganized areas here who said that they didn't know of this hearing. They just saw it in the newspaper. If they could be given about five minutes just to make a presentation at the end, they would very much appreciate that.

The Chair: I appreciate that some of you are quite willing to be accommodating, and so am I as the Chair. We have a tight schedule. The way that we have put people into our schedule is if we've had a cancellation; otherwise, it gets complicated. We have to be at the airport, I presume, around 6 o'clock.

Mr Eddy: What time do we leave?

Clerk of the Committee (Ms Donna Bryce): Five to 6, I think.

The Chair: I would recommend that as much as we would like to accommodate them, I don't think we can.

Mr David Johnson: If there are cancellations, then would you undertake to fit them in?

Mr Perruzza: If one of the other groups is prepared to give up five minutes, we should accommodate them then.

The Chair: That's right. I was about to say, if some deputants want to cut short their presentation by five minutes and we have 15 minutes to give to one of the other people who'd like to be deputants, we will do that.

Mr Hayes: If the members also would consider that.

The Chair: Otherwise, this would be an unusual diversion of our rules, I would argue.

Mr Grandmaître: Were these people advised?

The Chair: Yes. You know the way people are advised through the regular advertisements that we give in the papers.

Mr David Johnson: Well, let's get going and maybe we'll have some time.

BRUCE PENINSULA ENVIRONMENT GROUP

The Chair: We call Mr Ziggy Kleinau.

Mr Ziggy Kleinau: Good afternoon, ladies and gentlemen, Mr Chair and members of the committee. My name is Ziggy Kleinau and I'm the secretary of the Bruce Peninsula Environment Group. I thank you for the

opportunity to make this submission on behalf of the Bruce Peninsula Environment Group.

Our group has been involved in environmental issues for at least five years. Every month of the year we hold a public meeting attended by an average of 40 people. There's widespread interest and concern about planning and development in the Bruce Peninsula, a small strip of land between Lake Huron and Georgian Bay with its own ecosystem.

A substantial part is covered by the Niagara Escarpment, which was declared a world biosphere reserve by UNESCO, with the intent to protect its unique character from development. The federal government established the Bruce Peninsula National Park in 1987 on the northern part, encompassing approximately one third of the peninsula.

Needless to say, the rest of the land area is under enormous development pressure because of its scenic beauty, but it has a fragile ecosystem with wetlands, river valleys and rocky ground, poorly suited for septic installations. That fact spurred us to participate in the public hearings of the Commission on Planning and Development Reform. Several of our members made individual submissions. We were impressed by the open process and the final recommendations of the commission, which gave a perfect example of efficiency and expediency for any planning authority coming in \$1 million under budget and also well ahead of schedule.

It was when we were able to assess the government's response to their recommendations that we had to become involved again.

We deplore the fact that Bill 163 was not issued in draft form for public consultation. The Sewell commission spent two years in a successful bid to receive public comment. In this bill, which after receiving first reading in May now goes before committee, some very important recommendations have been passed over.

Listening to the commission chair at the CELA annual meeting earlier this year, we were aghast that the government proud to present the interests of the working class has bowed to corporate pressure to delete five of the major recommendations of this final report: the desperately needed inspection of septic systems every five years; the control mechanism for tree cutting; deleting controls over all other ministries except the MMA, Ministry of Municipal Affairs; the right to appeal unless intention was filed before a decision; and also proposed legislation weakened by turning it into regulation instead.

We have to stress in any planning exercise the natural environment has first priority. It is only logical because we ultimately cut our own throats, so to say, by not taking into account that human beings need clean water, clean air and clean soil to protect our own health. What would a wealthy economy do for us if we cannot enjoy it because of poor health?

We realize that problems arising on the peninsula can affect water and air quality in other parts of the county and in the province and vice versa. That is why we are strongly recommending clear policy statements for all planning authorities to follow.

We especially want to see Ontario Hydro covered by all the new legislation in regard to land use and development. In the report *A Strategy for Sustainable Energy Development and Use for Ontario Hydro*, commissioned by chair Maurice Strong, it is stated that Ontario Hydro is one of the largest land owners of Ontario. That's found on page 78 of the report. The utility is advised in their recommendations "to formally adopt a corporate policy to protect and conserve biodiversity." Advice often has not been heeded there and so it is only fair that this corporate giant be made to play by the same rules as the rest of businesses and citizens of Ontario.

In that context, we specifically would recommend to make changes to certain sections of part III.

In section 4, clause 1.1(a), the word "economic" should be deleted for reasons pointed out above.

In section 5, under "Provincial interest," we propose that paragraph 2 be rewritten to say:

"Every minister of the crown, every ministry, board, commission or agency including every crown corporation in carrying out their responsibilities under the act shall be consistent with policy statements issued under subsection (1) and with the purposes of this act."

In this section again, we find that as a matter of priority the protection of public health and safety clause, clause 2(o), should be moved up to second spot before clause 2(b), agricultural resources of the province. Again here the legislators underestimate the importance of public health.

In section 6(5), regarding decision-making, the word "every" should be inserted before all the public bodies named therein.

In that same section under 14.4, composition of body corporate, it is absolutely essential that it calls for the appointment of a member of an environmental non-government organization, ENGO, to the municipal planning authority. How can any council used to dealing with fiscal and economic matters have any expertise on environmental issues? We have just seen it with the composition of the Bruce county planning committee where almost all members are connected with the development or business community. Such an ENGO is critically important for the preparation of an environmental impact statement, EIS.

1410

As time constraints prohibit us from going too much into further detail, we would like to stress only a few points that desperately need to be incorporated into the act.

As there are still too many possibilities of interpreting the act to the detriment of environmental values, we have to have the commission's recommendation for intervenor funding brought into the act by including the OMB under the Intervenor Funding Project Act.

The dire need to prevent further deterioration of our drinking water sources demands the strict supervision and inspection of all septic installations in the province on a regular basis.

The danger of depleting our aquifer recharge capacity by indiscriminate commercial water sales operations has

to be addressed in all official plans.

The act needs an overall interpretation section for the comprehensive set of policies where it states that if a prohibition occurs in one policy, the prohibition supercedes all other policies where there is a conflict.

The revision of municipal plans in light of new policies must occur under a new set of Planning Act amendments governing municipal plans and to include into their content requirements the incorporation of watershed environmental planning principles for development decisions.

The protection and conservation of biological, ecological and genetic diversity has been expressed as one of the principles underlying the Environmental Bill of Rights, subsection 2(2). It is therefore necessary to bring the Planning Act into consistency with this new legislation.

The importance of mineral aggregate resources has, in our opinion, been vastly overstated, even to the detriment of agricultural lands preservation policy. Let's put things into perspective. Ontario for some time now is a net importer of food products and getting ever more so. If we insist on opening new areas for mineral extraction instead of cutting back on building these superfreeways, we might end up eating gravel some day.

To conclude our submission, we again would like to express our appreciation to the Chair and members of the committee for giving us their time and attention. We would like to express our hope that there is a desire to incorporate our proposals into the final version of Bill 163.

Mr Grandmaître: Thank you for your presentation. I agree with you that we should have legislation in place to inspect septic tanks every five years. I think Mr Sewell himself in his research indicated that 80% of our septic tanks in the province of Ontario are defective. I think it's very important, if this government and other governments want to protect our environment, that a clear inspection piece of legislation should be in place to permit the inspection and to repair those defective septic tanks.

Having said this, let me try to picture where exactly you live or the area you mention in your deputation. A substantial part is covered by the Niagara Escarpment plan, which was declared one of the world's biosphere reserves and so on and so forth. Now, part of your area is controlled by the Niagara Escarpment plan. What about the area where you live? Is there an official plan? What controls your area at the present time?

Mr Kleinau: Actually, the township of Lindsay, where I live, has an official plan, but in the meantime these counties are working on a new official plan and there we're running into quite a bit of difficulty.

Mr Grandmaître: In other words, they're more compatible?

Mr Kleinau: That's right, yes. As I say, the Bruce county seems to be very development oriented and they just go overboard with dealing out new permits for development. Quite a number of the members on the Bruce county planning committee are development oriented and there's no input from any environmental source, and this is a problem.

Mr Eddy: Thank you for making your presentation to

us and giving us some good food for thought. With the official plan for the township, you say it's quite strong, or is it completely development oriented as well?

Mr Kleinau: Well, it has openings, you see. That's the problem with the councils. They always try to accommodate the developers.

Mr Eddy: But then if they're objected to, a hearing is held by the OMB. How do you find the OMB deals with it? Do you find that most of the applications that come forward are finally approved?

Mr Kleinau: The problem is that the OMB up till now hasn't had very many things to go on. I mean, everything was quite up in the air. That's why we need this planning reform and that's why Mr Sewell had these strong recommendations in his report.

Mr Eddy: Do you feel that this act should follow Sewell much more closely?

Mr Kleinau: I would say that, yes.

Mr David Johnson: I would simply on behalf of Mr McLean and myself express our thanks to Ziggy. I know that his dedication to the environment is unsurpassed. I believe I had the opportunity to listen to you during the debate on the Environmental Bill of Rights and you brought a very similar message at that point.

I think your brief speaks for itself, and consequently I really don't have any questions and, Mr Chair, would simply like to dedicate the remaining three and a half minutes or whatever is left to the unorganized township of Sudbury East planning board area in the interest of allowing everybody an opportunity to speak, since they've come this far. That's all I'll say. Thanks very much.

Ms Harrington: Thank you very much for coming up here today. I want to tell you that we appreciate very much your particular concerns regarding the septic tank systems, the tree cutting, the controls over other ministries that you enumerate here. I may ask staff to give me their idea of what should be done with the septic systems but, before I do that, I want to ask you one question. You bring up the idea of environmental advisory groups to, I believe, municipal councils?

Mr Kleinau: Exactly, yes.

Ms Harrington: We have heard this idea expressed before in southwestern Ontario. I think it's an excellent idea. Obviously council could take the advice or it could vote against the advice given.

Mr Kleinau: They need the advice to begin with, and then they certainly can do what they want with it, but it's got to be there.

Ms Harrington: How would you suggest that we go forward with this to encourage or even more than encourage councils to have such committees?

Mr Kleinau: Well, in our estimation it could be written right into the bill here. I mean, it talks about the makeup of the planning authorities and it could be part of this makeup. It could be stipulated in there.

1420

Ms Harrington: I think the bill very much does encourage citizen involvement at the beginning of the

process, and it actually is up to a municipality, the citizens there. I mean, if you don't have people who are willing to do this, it may not be possible, but I think the way things are going, more young people are becoming much more concerned and involved.

Maybe I could ask the staff to comment on the septic tanks issue. Would that be all right?

Mr Hayes: I'll do it if you don't mind.

Thank you very much for your presentation. I just want to tell you that the government does recognize that proper installation and maintenance of septic systems is important to protect the environment. What is happening now is that there is going to be a multidisciplinary group of stakeholders to review this issue, because it is a very complex issue. They'll be making recommendations in regard to the implementation and how we're going to approach this particular issue.

There are some questions about how the inspections should be done and who pays and all of these kinds of things, but on top of that, what we have done is actually invited representatives from the Ministry of Environment and Energy to come before this committee—I believe it's going to be next Monday—to bring the committee up to date and see how we can come to a solution on this particular issue.

Mr Kleinau: The problem is just that, I mean, there's an estimated 33,000 new septic tanks going in a year and if they're not properly supervised, then we have that added impact on our drinking water sources. There's got to be some speedy solution to this problem.

Mr Eddy: But new ones are put in according to specification, aren't they?

Mr Perruzza: I'd like to give the time to the deputant, so I won't ask my questions.

The Chair: Mr Kleinau, we thank you very much for coming and thank you for participating in these hearings.

We have approximately eight minutes to give to the individuals who would like to depute. Eight minutes will have to suffice. Are you prepared to do that now? Please come forward then.

Mr Eddy: Mr Chair, while they are coming forward, Reeve Jim Slack has also asked for the opportunity to speak to the committee for a very short time, if possible. He did that this morning.

BASIL MORRISON

Mr Basil Morrison: My name is Basil Morrison. I am a resident in an unorganized township southeast of Sudbury. Thank you for giving me the time to speak.

Under this official plan, there are to be no further severances for year-round dwellings in unorganized townships, and the vast majority of the land in the province of Ontario is unorganized townships. Given that present rural property owners tend to be older people, they have two choices: They can sell the property in one block and move into a senior citizens' rabbit warren or they can grow old and feeble all alone on their land, forcing it into disuse. They cannot, under this proposed legislation, have the comfort and support of a family member located close by to help them maintain their property, maintain the

land. They're going to have to let it go back to bush.

They own what must surely be now the only indivisible asset that there is in the country. Can you think of any other asset which is not divisible? You can even cut out a chunk of your own body and give it to someone else, but not land in unorganized townships. These are to become ghettos for the old and the lonely. How stinging that is in this the International Year of the Family. It's too bad that our children couldn't qualify under the federal program of family reunification.

This program certainly has the appearance of discrimination against seniors. This plan wants to force seniors out of their homes in the country to become part of a population intensification, a stated objective of this program, in the cities. There is blatant urban prejudice in this whole approach. Its authors assume that humanity is best served by ever-increasing density of population. To them, New York, Mexico City and Hong Kong are absolute nirvanas compared to the unorganized townships. We suffer the double disadvantage of being old and being few in number.

Now with respect to details: No consideration on this blockage of severances is given to the length of ownership. I personally have owned my land for 24 years. We have deliberately held that land. During all the years we could have severed it for profit, we deliberately held back for severance to our children when they were mature enough to be able to build their own homes and to be of aid to us.

No provision is made for a severance to a family member who cannot dispose of it, say, after 10 or 15 years. If they say, "Oh, you'll just give it to your child and they'll flip it and give it to someone else," that can easily be solved by saying that if you give it to a child, they cannot dispose of it to someone else.

The infilling provision on this number 17, under the rural division, essentially wipes out every other consideration. Not many farms are located on the edge of villages which have these houses no more than 500 feet apart. You'd soon surround the village or the small town and you'd run out of places to infill, so the infilling provision essentially wipes out all those other things.

Work on even a small farm requires residency on that farm. I don't know how many people here ever lived on a farm, but your home is usually your information centre, your tool room, your workshop and it has to be very close to where your equipment is kept. Living in town just doesn't work. You can't have a son who lives 11 miles away and be available for work on the farm when farm work needs to be done. This is not a nine-to-five job.

If an application for severance shows that it is for a full-time paid employee of the farm, that application is more likely to be approved than if it was for a paid or unpaid family member who would be there for a lifetime, not someone who just is there for six months or four years or whatever. Family members who work on the farm tend to be there.

Under this plan we are heading for depopulation of rural northern Ontario. It seems that the rural areas are to

be reserved as a playground for urbanites. Is that what your intention is? That's what the plan's intention seems to be. Is that what your intention is?

Mr Perruzza: No.

Mr Morrison: We hope it is not. Thank you very much for your consideration.

The Chair: One moment, please. I want to check to see whether Ms Forrest has some comments that might be helpful.

Ms Norma Forrest: I'd just like to clarify the policies as they apply to areas without municipal organization. The policies that apply are the policies of B.11. They talk about development generally being restricted in areas without municipal organization, but development being permitted in a couple of circumstances.

One is where it's directly related to a resource in proximity to the resources necessary. That talks about the situation where you've got a farm and you need farm help or seasonal residential development. The other situation is where it's in or adjacent to a builtup area in a territory without municipal organization. If you've got a settlement area that's already there, then certainly it would be possible to expand that settlement area in the unorganized.

Mr Morrison: People living on farms don't tend to commute to the farm from a settlement area. That might be a model that has been used in some other jurisdictions, in perhaps Europe or somewhere. That's what you're saying. If someone goes into infilling, you said if they're going to live in a settlement area.

Mr Perruzza: Describe the situation that you're afraid of so that we can respond to that.

The Chair: No, please. I think Ms Forrest understood the question. If we do that, it'll delay this much more than we can afford. Ms Forrest again.

Ms Forrest: I'd just like to clarify that there are two circumstances. The first is where development has to be located adjacent to the resource. You have this on the farm. The second is if it's not a house on a farm, then it has to be within or adjacent to a builtup area. We're not saying the farmer has to live in a settlement area.

Mr Morrison: Ms Forrest, could I ask if you know of any instance in which the Sudbury East planning board has considered the building of a severance on a farm to be locating that dwelling near a resource? Are they interpreting the word "resource" to mean tillable land?

Ms Forrest: I would say that there's nothing in the policies that would preclude a planning board from being more restrictive than these policies are, and if they've chosen to say that no severances are permitted on that farm land, then that's their decision.

1430

The Chair: Mr Morrison, what I recommend is if there are questions that you need further clarification on, our staff is available here to be helpful to you either today or in some other way by other communications. Okay?

Mr Morrison: Thank you.

The Chair: We thank you very much for taking an interest in presenting your concerns to this committee.

Mr McLean: Can we not get one question?

The Chair: No, I'm sorry. There's no time.

LIONEL BONHOMME

The Chair: We invite Melrose Heights Ltd, Mr Lionel Bonhomme.

Mr Lionel Bonhomme: Hi. My name is Lionel Bonhomme. I'm the president of Melrose Heights Ltd. Mr Chairman, members of the committee, I would like to thank you for allowing me the time to express my opinion on a few issues relating to the Planning Act and the Municipal Conflict of Interest Act.

I'm proud to be a land developer and have actively been involved in such matters since 1966 as a second-generation developer. My father was quite active in this business from 1935 until 1983. You can imagine how many agreements the municipal government has renegotiated over the years. To give you an idea of the number of units involved in these lands, 3,200 units have been developed and we still have approximately 900 units left to develop at various stages, serviced or draft plan approved.

The first item I'd like to discuss is conflict of interest, and from what I've seen on your hearings, I guess my approach is the other side of the coin. I'm not a municipal employee or a school board employee, I do not work for government, and here's how I perceive the problems of the current legislation.

I'd like to relate to you in 1985 I was negotiating with the public school board to service a site abutting Melrose Heights development. The building superintendent for the board was an alderman from another ward and wanted the site in that ward, which was a few miles away. Negotiations were conducted over several months and culminated in a rezoning application before mayor and council, which is comprised of mayor and eight aldermen.

When discussions occurred on this application, on instructions from our solicitor I requested that all board employees or trustees leave the room in the municipal chambers. The mayor, five aldermen and one department head left the room. We did constitute a quorum legally, but these are some of the problems that can occur.

Presently on council in the city of Timmins we have a few board employees or retirees sitting as mayor or council and we also have four department heads from the municipality that are school board trustees. My conclusion and my opinion is that no board employee should be on council and no department head or municipal employee should be a trustee for a school board. I think it works two ways in that it precludes proper presentation from wards at the school level: if you have a conflict you're not representing your constituents, and on the other hand, vice versa with the municipality.

Another area where I've identified conflicts is department heads dealing with immediate family, including in-laws. They should declare a conflict and withdraw from discussions, and I think that the act does cover these situations.

Granting more approval power to municipalities: The

concept appears to remove long delays and remove provincial bureaucrats who move at turtle speed. In my experience, and believe me, I've been involved in quite a number of files, some of my files have been lost for 16 or 18 months in provincial bureaucracies over the years. I've been subject to servicing and putting a shovel in the ground and waiting for an MOE certificate that's approved sitting in a typing pool six or eight weeks. I know that in Timmins our backlog of typing pool is at the most at budget time probably six hours.

I've tried over the years to explain to these bureaucrats that you're affecting the livelihood on the front lines and jobs. It can mean the difference of a construction worker collecting wages for the months of November and December or being on unemployment and on a waiting list or waiting so many weeks to be eligible for benefits or applying for social assistance. These passionate pleas do not move these agencies. They just don't care.

Another horror show I envisage is what occurs when a professional planner and engineer employed by a municipality are overruled by the wisdom of mayor and council. Over the years, for example, I've witnessed the sale of parkland to create high-density zoning for \$1 to a private sector developer. This not only contravened the Planning Act in relation to park dedication but created overcapacity loads on sanitary mains. The engineer and planner recommended against such approval. Who will pay to correct the problems down the road?

Today we've got an 18-inch sanitary pipe that when it rains and the rain goes from the storm—some of these storms are connected to the sanitary—it accelerates and it overuses the sanitary pipe. It has to back up somewhere. There are people getting nice sanitary flows in their basements. Is the municipality going to ask for a grant from the taxpayers, the province, the feds, the municipal taxpayers? Are they going to go and raid a developer who contributed DCA funds for a mistake that was done? These are some of the problems I can see.

The matter was presented at the Sewell commission, and I feel that when mayor and council overrule the planner or engineer the matter should automatically be referred to a tribunal for independent review prior to approval. This may send a message to public officials to better assess the implications before they act.

What I'm saying is that I have seen many instances where public officials have overruled professionals, and they don't understand what their approval is giving. They're subject to intensive lobbying, they'll grant the rezoning and, five years down the road when all the projects are done, they're faced with problems. They may not be on council by that time.

Over the years developers creating more units at times are subject to long negotiations that could affect the marketing of units. There are many cases where developers agree to conditions that are not fair, but in exchange for the approval granted quickly, concessions they are not liable for, they've agreed to absorb, just to get things over with, to get their approval. There's nothing wrong with a hammer like this held by a municipality, but there should be a limit on how much time the municipality can exercise that type of hammer.

An OMB hearing can cause years of delays and if the municipality is right, the developer should pay the costs the municipality incurred in the hearing. On the other hand, if wrongful intent or if the municipality is negligently wrong and it's obvious, they should be made liable for the costs incurred by the developer. I strongly believe that if each party were liable for their costs at an OMB hearing, the backlog would disappear.

You put your money where your mouth is, and not taxpayers' dollars. It's very easy to hide behind public money and go to an OMB hearing. It's very hard as a developer in the private sector to gamble hundreds of thousands of dollars to prove a futile point. You would not be referring matters to the OMB. I've been to the OMB three times in the last 10 years and I've won every case. I've never recovered any costs. I've had to take the municipality to court once and I was awarded costs. I got 30 cents on the dollar. It's frustrating.

Department heads negotiate and represent mayor and council at servicing committee meetings. I believe that it would be proper for elected officials to be part of the negotiating committee. My experience currently is, for three years I've been negotiating. I've objected to the DCA bylaw and I've been negotiating DCA/impost with the department heads and appeared before mayor and council this past Monday.

For most aldermen this matter was new and the first report or update as to the status of negotiations. There are millions of dollars at stake. Mayor and council was not aware of our positions, our legal positions, our arguments, and they're faced with this matter three years down the road. I think it should be law that they make themselves aware of what happens in these servicing committee negotiations.

Other matters: Provincial bureaucrats who err in decisions regarding allocations, whether in mining, housing, grants or any other funding, should be more accountable for errors. The Auditor General or whoever your auditor is should review performance tests on projects for each allocator, and problem bureaucrats should be reprimanded or terminated the same way as in the private sector. If an individual in the private sector makes a mistake that costs a company half a million or a million dollars, he does not get a slap on the wrist, he gets a red slip.

Minor variances and severances should not be referred to the OMB. An independent tribunal should be created to deal with such matters. This could relieve some case load pressures.

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Mr Curling: Thanks for your presentation, Mr Bonhomme. It is said that it's not necessary to have legislation in order to make this thing efficient, and maybe we spend a lot of time as legislators feeling that if we put more legislation in, we'll feel that we've done our job. Do you feel it's necessary for this legislation in order to get the system more efficient, by getting, as you call it, the civil service, the bureaucrats, getting the politicians out of it more and having this thing working properly?

Mr Bonhomme: My opinion is that this legislation is

a stab at trying to correct a wheel that has a flat tire. It's a step in the right direction and it's long overdue. It's a proven fact that the planning process over the last 25 years that I've dealt with it has been one major problem. At least I see this legislation as addressing some of the problem areas and it's a start. I think it's necessary. I think that this legislation is sending a message to provincial bureaucrats and to granting authorities that yes, they do have problems and we're trying to correct some of these problems.

Mr Curling: You have expressed that there's about 60 years of development that you and your father have been doing, I think from 1935 you said. However, you didn't impress me as a very large developer, in other words, developing a lot of units, 200 units a year or what the case would be.

What came before us mostly were people who are the smaller developers and they feel that they've been hurt more and it has been most costly to them to get you this kind of a process. Do you feel that this system, although you said it's long overdue and what have you, will help developers, if I describe you properly, will help you and people like yourself in this process, or will it slow you down?

Mr Bonhomme: I understand the land development process, I believe, in the province of Ontario, and I find that if it takes me two years to go from draft to draft to final registration stage, I've handled the file properly. I can tell you that when it goes beyond that time frame it's always provincial bureaucracies that are in the way. If my file gets lost in Timmins, I'll be able to find it in one or two days, and if it gets lost in Queen's Park, I don't even bother flying down there to look for it, and you can send any member of provincial Parliament you want, it doesn't matter.

Mr Curling: Would it be helpful for you to have the regulations? As you said, somehow people have complained the legislation did not hit the target. Maybe the knife was too dull for the tire now. But would the regulations help you to see where the government is going in having this thing more efficient, having the regulations available for you to see?

Mr Bonhomme: The regulations?

Mr Curling: The regulations, not the legislation. We have the legislation now, but they don't call it the legislation because normally not a lot can be changed. If a lot can be changed, a lot of amendments will come forward. I don't see any coming forward, but we expect some. We are hopeful, because there's a lot of changing to be done. Do you feel then that if the regulations were here or to put most of what should be in the regulations—

Mr Bonhomme: More definitions.

Mr Curling: Yes, as a matter of fact, more definitions in the legislation so you know exactly what you do, would that be helpful?

Mr Bonhomme: The only area that I'm concerned with in aspects of this legislation is to protect developers from being 100% at the mercy of municipal bureaucrats or politicians. All I'm asking for is an appeal process; if

things are not going their way and they don't like it, that I have a venue to address that.

I'll give you this DCA/impost as an example. We're dealing with \$4 million. I signed an agreement with the municipality in 1985. The Development Charges Act came into effect in 1991 with a sunset clause that does not apply to me. Subsection (2) of that sunset clause states that agreements signed under sections 51 or 53 of the Planning Act are exempt from the DCA bylaw where there's a conflict.

The DCA act states I'm entitled to a credit for my oversizing in my infrastructure. If you calculate that, I should get a credit of \$3 million. They say, "We can't give it to you because in 1985 you agreed to oversize pipes for other lands at your expense and we will not give you a credit under the DCA act." We said: "Fine, thank you very much."

The agreement says in 1985 that we pay impost and that we pay for oversize. Three years down the road we ask the municipality: "Respect the agreement. Here's your correspondence. You state that you're using that agreement against us over here. Enforce it over here." They're saying, "You've got 850 units left, Lionel. We'll give you 350 and we'll give you your channelization costs that you want to recover and call it quits."

I'm saying, "What if I say no?" They say, "Well, you go to the OMB." It's going to cost me an extra \$100,000, \$150,000 to go to the OMB and I cannot recover their costs. They've already admitted that the agreement is legal and binding. So now we're saying we addressed mayor and council and mayor and council said, "This is all new to us." We have two different legal opinions. Why don't we get a court ruling? So we're bringing a motion.

We're going to be the applicant and we're applying for a ruling about an agreement entered in 1985 and a DCA act that comes in in 1991 and states clearly that agreements prior to that are valid. We're going to spend another \$25,000 each to get a judge to tell us that, yes, in fact that agreement is right. This is the kind of thing I'm facing. On the other hand, if I was in a rush and I needed 100 lots for next spring, I wouldn't be going to court. I would say, "Okay, I'll take the 350 units," and I've lost 500 times \$4,000 a unit.

These are the kinds of problems, and I'm saying that if municipalities want to have that power, I agree with it, but if they abuse it, they should be accountable.

Mr David Johnson: Thank you, Mr Bonhomme. I certainly appreciated your deputation. It seems to you've had a difficult time with both the municipal level and the provincial level in some of your dealings.

Mr Bonhomme: That's correct.

Mr David Johnson: As a person who has been on the municipal level and has had to deal with the recommendations of the engineers and the planners, I certainly hope I've respected them, but I understand some of the problems.

I guess basically if I've heard a consensus in this committee over the last couple of days that I've served on it, it's that there certainly have been problems at the

provincial level, particularly through the Ministry of Municipal Affairs. I don't know if that's where your problems are coming from or not, but I'd ask you to comment on that.

Secondly, most of the municipal people seem to be genuinely interested in expediting the applications of people such as yourself and feel hamstrung that they're going to have a difficult time doing that because of the structure that has been imposed on them, the regulations, the legislation, including possibly Bill 163 if it goes through, from Queen's Park.

They feel that they need local flexibility, that the conditions are different in Timmins, in Thunder Bay, in Sudbury than they are in Toronto, for example, and the same set of regulations should not apply. So there should be the ability of the local, elected members to be able to deal with the conditions in Timmins or elsewhere. They shouldn't be hamstrung by the same exact procedures, goals and guidelines that would take place in Toronto.

If they can do that, if they can have that flexibility, then they, in conjunction with the people they represent, can work with you, the developers, and fulfil a number of goals in terms of economic development goals, environmental protection and build the kind of community that they need. I wonder if you'd have any comments on what I've just said.

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Mr Bonhomme: Some of the problems I have encountered were with the Ministry of Municipal Affairs. That's where my files got lost at the end. But I've had problems over the years with the MNR. Some of the other agencies are slow in replying. They're not interested. To them it's a nuisance that they have to reply. The MOEE has always been a major problem. They have a backlog. They have typing pools that take, minimum, six weeks to fill the blanks on one piece of paper, and you're dealing with millions of dollars. I mean I've offered to type them and bring them to the minister and fly at my own expense and it's "Do you have a process?"

As far as flexibility, I think if Bill 163 were enacted, the problems would probably arise in the pursuant two or three years. You're right, there are areas where flexibility is required, Thunder Bay, Sudbury or regional boards, and Sault Ste Marie where Timmins is a local board. There are different problems to address, but I think once you have the act in place, it would probably be the job of FONOM or AMO to identify these areas and let them do the work and bring it to you.

Mr David Johnson: Let me ask you, right now you're dealing with the Minister of Municipal Affairs primarily in Toronto?

Mr Bonhomme: That's correct.

Mr David Johnson: Now if you were able to deal with the Ministry of Municipal Affairs locally, do you think that would be an improvement?

Mr Bonhomme: It would be. There used to be a planner at the Ministry of Municipal Affairs by the name of Karen Hardy, who looked after all the Timmins files, and I guess after dealing with her for a number of years, she could track down and get through that jungle and she

was a dedicated planner. What I'm saying to you here is that not all bureaucrats are the same. You have some very good bureaucrats, some very dedicated people and you've got others on the other hand—it's like any other business, you've got good apples and bad apples.

The Chair: Thank you very much. I'm sorry, that's four minutes, Mr Johnson.

Mr David Johnson: Did I have four minutes?

The Chair: Yes. No, the problem is this. When someone asks a question close to the four-minute point and then the answer takes three minutes, we get into seven minutes and that extends the time. Do you see? That's what sometimes happens. Mr Perruzza.

Mr Perruzza: Thank you very much. I really appreciated some of your comments. Before I got this job, I was on a municipal council, the city of North York, and I can appreciate some of the things you were saying. Councils do have an enormous amount of power. The example that you were referring to, I used to call the gun-and-the-hammer approach: "What are you going to take? Do you want to take a hit with the hammer or do you want the gun?"

You're right. If we can reduce that to some degree, I think that would be a helpful thing, and if we can make the rules a little clearer for all of the parties up front, for the developers as well as many of the community groups as well as the councils, because I think in the end—and I agree with you that perhaps there are some bugs in the legislation; I wouldn't say it's perfect in its conception or its design—but I believe, like you, that as people begin to weave their way through the legislation and through the rules, some of those bugs will be cleared.

I suspect that many of the cities, many of the councils that have come and have addressed the committee and have talked about how the province is usurping their authority and limiting their ability to plan locally and all of that, many of those same councils five, 10 years down the road will come back and address a future government and say to them: "Hang on a minute. This is working well now. Please don't come along and fix it or move on it."

I appreciated your reiterating some of that because, quite frankly, under a lot of the cross-examination that's gone on people have been able to extract from many of the deputants who have appeared before this committee the slant and the political twist to the arguments that they've desired. To me, that to some degree is wrong.

But I want to go back to a point you raised in one of your arguments. You talked about how the municipal staffers—and it relates really to the conflict argument that you made, how we have to be diligent in our approach to how we envelope municipal councillors, as well as school board trustees. I've been both and I can appreciate some of the influences that intermingle between the two posts.

But you said we should allow the staff people and the senior staff people more authority and more jurisdiction. In that vein, would you say that senior staff, both at the school board and the municipal level, should to some degree be enveloped by conflict guidelines?

Mr Bonhomme: I think that a member of administra-

tion on the municipality, whether he be a planner, an engineer, parks and rec—

Mr Perruzza: The administrative officers per se.

Mr Bonhomme: The whole five or six department heads that come and deal with land developers should be prevented from investing in subdivisions. The temptation is too big. They should not be allowed to form investment clubs to buy land. How about if you sit on the committee for a school that's choosing a land site and you're the recording secretary of that through your job at city hall as a department head and, all of a sudden, you turn around and you option some lots for \$5,000 and you turn around and you sell it to the board for \$30,000? These things have occurred in the past.

The legislation, to the department heads, the temptation is too great. You either want to be a dedicated municipal bureaucrat or you want to become a speculator, but you can't have both. I think that they should fall under that.

Mr Perruzza: So we should look at some kind of disclosure for senior civil servants and municipal and school board levels as well?

Mr Bonhomme: That's correct.

The Chair: We've run out of time. Mr Bonhomme, we thank you very much. We find your presentation very helpful.

MUNICIPALITY OF BLACK RIVER-MATHESON PLANNING BOARD

The Chair: We invite the township of Black River-Matheson area planning board, Mr Robert Barber. Do you want some water?

Mr Robert Barber: No, I may need a gun or a pair of running shoes might be handy.

Mr Wiseman: You don't need that. We're friendly.

Mr Barber: Oh, you're friendly? Oh, thank goodness.

Ms Harrington: We're all friendly here.

Mr Barber: To tell you the truth, I didn't know what I was getting into. I walked into a meeting and they said, "We're drawing straws," and handed me one, and it was the short one. I don't know, I didn't see the other straws whatsoever.

However, I thank you for the opportunity to address this gathering. This is a complex matter. Planning, of course, always is complex whether you're sitting in downtown Toronto or in Black River-Matheson. I'll read the brief and respond to any questions. I don't think this will take long.

First, the planning board of the municipality of Black River-Matheson would like to congratulate the government for the efforts being made towards refining the Planning Act. On the surface it appears that the new approach may lead to a better system rather than just adding to the amount of red tape and costs involved.

The main concern our municipality has is that it seems that too wide a brush may have been used in an effort to paint the entire province equally. Conditions and concerns as they apply in southern Ontario may be very different when it comes to northern Ontario and vice versa. Unfortunately, too many of the reasonings may be too slanted towards the more developed south and need much

refining to fit the realities of the north.

For instance, the new policies, while good, require the input of people from diverse specialized fields such as hydrogeological engineers and the like. In southern Ontario these specialists are often quite near and so the price of any required study is relatively cost-efficient. In the north we have to contract with distant firms, pay transportation, housing and the like, which pushes up costs dramatically.

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While it is fine to say that the developer will pick up this cost, it may just mean that any possible development will be funnelled into the south. Those in the south will appreciate that, but it will do little to enhance improved lifestyles and opportunities in the north. In time, we are sure that such firms would respond if there was need and open branch offices in the north. If all of the development is encouraged to go south, however, that will never happen and we will only slide farther back.

Another concern is that if planning and development and the revisions to the Planning Act had been kept separate, this would be truly a progressive piece of legislation to be proud of. Unfortunately, by tying this into the Municipal Conflict of Interest Act you have done a great disservice to those of us who have been promoting the planning improvements. The conflict-of-interest act should be a wholly separate piece of legislation which, while it pertains to nearly all aspects of a municipality's operation, is not just a planning matter. By handling both acts under one heading, Bill 163, you are forcing those who have been trying to get changes made in planning to also support a very controversial piece of legislation.

As a planning board, we are requesting that the two acts be separated so a more streamlined planning system can commence without the confusion and dissension of tying the two acts together. With the bill as it now stands, it is very difficult for us to support.

When addressing conflicts of interest, as the conflict-of-interest act does, you are merely scaring away people who only want to serve their communities without the danger of being sued over some misconception. As it reads, it almost reverses a long-standing presumption and makes a person guilty until they go to the high cost of trying to prove themselves innocent.

In the way this act is written, I, as the vice-chair of the planning board, may have to give up any position on that board since my cousin is the only lawyer in this municipality and often appears before the board for a client. As we read the act, I will have to vacate my seat when she appears before us, since there may be a conceived conflict, whichever way I vote. In some instances that would mean there would not be a quorum and so no business could be conducted. It may be that we are interpreting the act wrongly, but as Rusty Russell told us at a planning conference, "When in doubt, get out."

Here again, the conditions and realities of the south are being forced upon the north and fouling things up. It is difficult enough to get good people to give up their free time as it is. This act, unless watered down, will make it

nearly impossible. There is a definite need to address the matter of conflicting interests, but we feel the conflict-of-interest act as it is written may be like using an atom bomb to swat a housefly.

In six years as a municipal councillor and many more as a member of the planning board, the only gift I ever received was a calendar and a good bottle of rye. This came from a contractor who had tendered on a contract we advertised and was lucky enough to get it. The next year, when the same tender came in, he lost out because he was not the lowest bidder. Under the new act, I would have been in direct conflict. I think the writers of this act should have looked at the realities rather than at some worst-case scenarios. As it is written, it may have a great deal of validity in the larger urban centres, but only hamstring smaller municipalities.

In brief, the efforts to revise planning and development, though perhaps too restrictive for the north, are a giant step in the right direction. I am sure they can be reworked and altered to assist the entire province equally. As far as the conflict-of-interest act is concerned, there is much rethinking needed here to make it a sane piece of legislation which truly protects both the decision-maker and the people. It will be difficult, but at least there has been a start. Lastly, please separate these two pieces of legislation, so we can get on with planning without also supporting a noose around our own necks.

Thank you. Are any questions?

The Chair: Could I just raise a question with committee members? If we give five minutes each to each caucus we would have enough time to allow, as I understand, another member of the public who would like to speak, and he would have approximately eight minutes as well. Is that all right with all of you? All right. Mr Perruzza, five minutes.

Mr Perruzza: First of all, thank you very much for coming to appear before the committee. I guess my question is, why the separation? I'm not wholly sure of why. You said you didn't like the conflict-of-interest rules and, to be straightforward with you, there are some elements of it that trouble me greatly as well. But you didn't elaborate on what elements of the new rules you don't particularly like and why it is you don't like them.

There are some merits to some elements of the rules in that I believe that municipal councillors and to some degree trustees should file documents which itemize their interest and their involvement with certain individuals or certain companies. I believe that the public institutions which they will represent and which they will contribute decision-making to, in essence, have a right to know that.

The part that concerns me is how that information is circulated and who it's provided to and how that information, quite frankly, can be used against individuals on a frivolous level by people who may not happen to like you, or may not happen to like how you voted on a particular issue, or don't particularly like you as a representative and would like to see you gone and will make it their business to investigate your personal dealings in the hope of finding out something.

I don't think that's something that's helpful or benefi-

cial, and I think that to some degree that is something we can deal with. But I wanted to know from you what elements of the act or of the bill you're not comfortable with.

Mr Barber: I think, had you read my brief, you would have seen two instances—

Mr Perruzza: I listened intently to your brief.

Mr Barber: —where I did point out that I would be in conflict now and may have to give up my seat on the board.

Mr Perruzza: I don't believe you would be in conflict by accepting a bottle of rye.

Mr Barber: No, no, that's ancient history. That was just thrown in. That was the only one that I did get.

My cousin is a lawyer. She's the only one in the municipality. She often appears before planning board. As a direct relative of that individual, really, the way that conflict-of-interest act reads, I am in direct conflict. Should I stay at the table? All too often, because we are a small board, if I leave, we don't have a quorum, so no decision can be made. So what's the point in her even attending?

For her to be able to get on with her livelihood, and because the position I hold is merely a volunteer position, I have to give up something I enjoy because of some piece of legislation which, yes, it does have merit. I'm not shooting the law down. I'm not saying the law is no damn good at all. I'm saying it doesn't fit the mould of the majority of the north.

Also, you said, "Why separate it?" I would like to turn that around and say, why the hell did you ever combine it with such a good piece of legislation as the Ontario Planning and Development Act? Who was the idiot that put it in there? Come on, let's get down to brass tacks.

Mr Wiseman: It's irrelevant where it is.

Interjections.

The Chair: Order, please. Ms Harrington, just one more moment.

Mr Perruzza: I do have a clarification that I'd like to get. I'm not quite sure that that would be a conflict. Perhaps if we can have a clarification—

The Chair: Mr Hayes was prepared to speak to that actually. Do you want to hear that now?

Mr Perruzza: Yes, please.

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Mr Hayes: Actually, just to be very blunt, the only way that it would affect you is if you yourself had a pecuniary interest. It has nothing to do with your cousin being a lawyer. But the only people it really would affect would be your spouse and minor children. That's that part.

Mr Barber: Oh, I didn't figure on doing—

Mr Hayes: You would not have to declare any assets and you certainly wouldn't have to leave your seat.

Mr Eddy: Thank you for your presentation. You raised some good points. Many of us agree completely with you that there are far too many things shoved in this bill together. It makes it very awkward because it pre-

vents people coming forward to comment on all parts. They don't have the time. They've concentrated on this part or this part.

Living in a smaller municipality like I do—it's under 5,000 population; I know there are many in the north smaller than that—the thing that I keep running into is people saying: "I serve the municipality, I get very little out of it, and this is going to stop me from serving." I'm fearful and I don't know how to get around it. I've suggested to the government we exempt municipalities, say, under 10,000 or even 6,000 or something. I don't think we have agreement on that. I don't know how to get around it, but many people are concerned. Have you any suggestions along those lines?

Mr Barber: This is the thing. I'm not saying that the conflict-of-interest act is not good. In our municipality which is 3,500—so you live in a big one—it has no validity. A big payola is a crock of rye and a calendar. Whoopee. Yet that would be a conflict because I accepted a gratuity from a person who is a bidder on a contract for the municipality. I did at that time; I don't sit on council any more. It's a concern I have.

Mr Eddy: You made a point about too many of the reasonings may be too slanted toward the more developed south—I would like to say, and rapidly developing south. That's where we have the conflict, the north and the south.

Mr McLean: I just want to be very brief. I want to thank you for coming because you certainly put your concerns very clear. I hope the government is listening. But the part that I have with your brief is the last paragraph where, "I am sure they can be reworked and altered to assist the entire province equally." I find this legislation's going to be very hard to be reworked because there's so much difference in the north and the south of the province. This legislation is geared to southern Ontario. Unfortunately what I'm seeing is the north is going to try and have to live within it, which is going to be darn hard.

Mr Barber: It is. You know, down in the south they are protecting wetlands. In the north we've got too damn many of those spruce swamps.

Mr Hayes: We appreciate the positive comments that you've made toward this piece of legislation. I just might say that I can understand what you're saying, that maybe things are getting mixed up here. But really the fact of the matter is that when you take the open local government and the planning reform and the disclosure part of it, all three of those really complement themselves. Really it does provide a framework to make planning decisions. The policies are going to be up front and people will certainly understand them.

The part about the bottle of whisky, you might have to report that, I guess, if you got a case or else a \$200 bottle of whisky.

Mr Barber: It doesn't state that in this conflict-of-interest act.

Mr Hayes: It does. It will be in the—

Mr Barber: Oh, yes. But that isn't what I have to—

Mr Hayes: Hear me out, please.

Mr Barber: —argue with, you see?

Mr Hayes: No, you don't.

Mr Barber: Just this thing in front of me.

Mr Hayes: No, you don't, but let me just tell you right now, if you get one bottle of whisky, you don't have to tell anybody about it.

Mr Barber: Somehow I wasn't going to lose any sleep over it.

Interjections.

The Chair: Order, please. Is there another point, Mr Hayes?

Mr Hayes: No, I think that's good enough.

The Chair: We thank you very much for coming down.

Mr Barber: It was an enjoyable trip. I hope that some changes are made, though. It needs it. Thank you.

AUSTIN CLIPPERTON

The Chair: We invite Mr Austin Clipperton.

Interjection.

The Chair: Mr Eddy. Order, please. Welcome, Mr Clipperton. There are approximately 14 minutes.

Mr Austin Clipperton: Mr Chairman and members of the committee, I apologize that I missed the notice in the paper of the hearings taking place and was reminded only two days ago that such was happening. I haven't got a brief put together but came purposely to hear what other people were saying, and I probably will follow up with some written comments because many of the comments I heard I support, particularly I support my council and my planning board and particularly in regard to the painting of the province with a wide brush as evidenced through the policy statements and the legislation.

I echo back to the first speaker this morning. Let us be able to adopt some of these policies into our official plan, not provincial policies. More particularly, and I won't take long, the legislation proposed does exempt, and this has been pointed out before, this afternoon and this morning, it only includes, shall we say, the municipal board, the council of the municipality, the local planning boards and so on, and the only provincial ministry is the Ministry of Municipal Affairs.

The policy statements suggest, and I think it is great, that land use planning should be coupled with infrastructure. Coming from a rural, northern Ontario community and representing that community, infrastructure to us is roads, roads and more roads. One of the uses of these roads, which we have no authority to control, is the hauling of pulpwood and other timber products over our road system, this wood majorally being cut on crown lands within and adjacent to our municipality. These lands are non-taxpaying, non-grant in lieu of paying lands, and yet the product we have no control over, if, when and how this harvesting will be done.

We can, of course, impose half-load regulations during the spring season, and in fact the Highway Traffic Act does give us the right to impose half-loading or restricted loading during an extended period, and I guess you could go over the entire year. Our total public works employees

consist of six people. We would require to put these six people out inspecting weights, under the weights control, to stop overhauling, overloading on roads if we did have the half-loading on over the whole year, and in fact we do have it over the period from March 15 this year until June 15. I presented this comment to John Sewell and his commission many times, and they would say, "Yes, we hear what you're saying," but I didn't see anything ever coming out in document form.

I think that the province has to grasp this problem through our small northern Ontario communities and somehow give the municipalities some jurisdiction over how, when and where the loads are going to be hauled, when they're going to be hauled and so on, from crown lands particularly, and for that matter even on private lands. I notice aggregate resources are brought into the act. Why are timber resources not brought into the legislation?

I could echo other things that have been said today but I don't have a presentation to make on them, and I will follow up with written comments.

1520

Mr Grandmaître: I agree with you that more leeway should be given to municipal governments, especially in northern Ontario where 65% of your area is unorganized. I think that northern Ontario should be given special powers. Maybe we should have a Planning Act for northern Ontario and the unorganized areas.

To make it more clear to northern Ontario—because you do feel left out. You feel like, you know, we have to live like the big boys in southern Ontario and a lot of the sections in this legislation don't apply to northern Ontario. So I agree with you that you should be given more leeway in planning.

Mr Clipperton: It's a different world.

Mr McLean: Are you from an unorganized territory?

Mr Clipperton: No, I'm clerk-treasurer for an organized municipality, but our planning board includes some unorganized jurisdictions.

Mr McLean: You're familiar then with the unorganized territories, the rules and regulations that they're going to have to come by under these policy statements?

Mr Clipperton: Yes, we are.

Mr McLean: That policy statement reads: "Development will generally be restricted. Permanent residential development will not be permitted where opportunities for permanent residential development exist in nearby municipalities." So the delegation that was here before from the unorganized territories is exactly right in saying that there will be no development take place in the unorganized territories.

Mr Clipperton: It certainly will be discouraged—is discouraged by the legislation proposed.

Mr McLean: But I think the ministry staff indicated that there would be severances allowed if it was on a farm. Is that correct?

Ms Forrest: I'd just like to clarify that. My name is Norma Forrest. I'd just like, first of all, to clarify that the policies which apply to development in unorganized

territories are found in policy B.11 and those policies permit development that's related to a resource. They don't necessarily permit severances, but they do permit development.

Mr McLean: Okay, would you define a resource? Is that a logging camp or what is it? What's a resource?

Ms Forrest: It will be defined in the guidelines, but a logging camp would be a resource, a mining camp would be resource related, recreational development on a lake is resource related.

Mr McLean: Could you build a cottage then on a lake?

Ms Dewar: Yes.

Mr McLean: But no year-round residential development?

Ms Forrest: No permanent residential development except in the circumstances specified in policy B.11, which is infilling.

Mr Clipperton: I sometimes wonder, though, if there isn't more permissiveness in the unincorporated than there is in the small rural township municipality.

The Chair: Is that a question?

Mr McLean: That answers my question.

Ms Harrington: Mr Clipperton, welcome to the committee. You have come from Spanish River?

Mr Clipperton: That is right.

Ms Harrington: How far away is that?

Mr Clipperton: A hundred kilometres to the west.

Ms Harrington: Thank you very much for coming all this way. And you're the clerk-treasurer of the planning board?

Mr Clipperton: Secretary-treasurer, yes.

Ms Harrington: The question I want to ask you is something that we have heard suggested here and that is that each decision-making body, that is, the planning board or the municipality, would have what they call an environmental advisory committee so that every decision would have input from citizens who are concerned about the local environment. Can you see that happening in your area?

Mr Clipperton: I'm sure it could happen. I don't know that it's necessary. I think that we have a balance on our council and our board as it is without having to have an outside body like that.

Ms Harrington: So you think that issues of the environment are brought up in all official plan amendments?

Mr Clipperton: Yes, I guess my question back to you as a member of the committee would be, does the province require this? Does the provincial Legislature require this type of a body? They're democratically elected. So are the municipalities.

Mr Wiseman: Well, the Environmental Bill of Rights is exactly that kind of thing.

Ms Harrington: Yes. I would like to state that that in fact has come into effect, that every piece of legislation in the province now has to be subject to the environmental concerns.

Mr Clipperton: All of our legislation is subject to provincial statute. All the legislation, all the action a municipality or a planning board can take, is what is granted to them by provincial statute. Hence, we are subject to the same environmental bill that you are.

Ms Harrington: This is a suggestion that has come forward by citizens across this province in various places. They feel in some cases that the environmental concerns are not heard at the municipal level, so it's something that we should think about.

The Chair: Mr Clipperton, we'd like to thank you very much for coming down and for sharing some of your concerns with us.

Mr Clipperton: Thank you for letting me.

ALGOMA-MANITOULIN
ENVIRONMENTAL AWARENESS

The Chair: We invite Algoma-Manitoulin Environmental Awareness, Mr Ed Burt. Welcome, Mr Burt. Go ahead.

Mr Ed Burt: Ladies and gentlemen, I thank you for allowing me to come here this afternoon for a few minutes. I am sort of working under the umbrella of our group, but what quite often happens with me is when I get away from the group I usually say what I like.

Mr Wiseman: We won't know.

Mr Burt: I didn't prepare any papers. I thought that the transcripts are going to be recorded and anyone who wants to take anything out of a transcript can, and it saves a tree perhaps. That was my reason for not doing that. I'm just observing some things that I've seen around our area, and I don't want to tell anybody how to change wording in a bill because that's beyond me.

I think that in our planning in the future it's essential that we retain our diversity and actually build on our diversity, because I think in many cases we've destroyed a lot of it. If we can't work towards a sustainable future and some measure of regional self-sufficiency in our planning, I think we're in trouble, and that brings me to some of the observations I have that may or may not apply to this bill or even to this forum.

The other day, when I was coming on the bus from Ottawa through Coniston and looking at the denuded area of—it's green, granted; it wasn't green a few years ago, but it's green scrub—I was picking blueberries with my granddaughter in the Coniston area recently and we were picking berries around hundreds of huge pine stumps, and I looked at the area from the top of a hill and, looking at what we're doing now in our environment, it seemed to me that we haven't learned a damn thing.

Just to go around the area, that may, like I say, may or may not apply to this forum, a few years ago—I'm an organic farmer; I just recently moved into a new home and my son has taken over the property, but I've farmed for 45 years on Manitoulin Island and a few years ago I used to buy grain for some of my livestock from the valley out here in the Chelmsford area.

I drove through there just recently and I see piles of topsoil piled up on the land that I used to purchase grain from. I look at a sustainable future for this area and I look at where we may have to produce food in the future

in Sudbury and I look at what I term to be topsoil thieves who buy a piece of property, and no, there doesn't seem to be anything to stop anybody from bulldozing the topsoil up and selling the whole farm, and it's gone for ever.

1530

I think that in many cases in our area people get elected to local government so they can do more things that they want to do—developing. I think there are times when, in the very near future, we're going to have to say no to a lot of developing and planning.

Just close to where I live in Carnarvon township, the reeve a few years ago subdivided his grandfather's farm. That's a little small community that lives on the limestone on Manitoulin. To the north of Mindemoya, which is in the centre of Carnarvon township in this little village, to the south of it there's some really good land, and to the north of it, and either east or west are good areas to develop homes and businesses.

But he developed a beautiful piece of property. Every time I go through there and look at the silhouette of a home against the western sky and I see six or seven lots that have no houses on them at all and then another lot, it's a mess. I often think that some day maybe the people could walk or commute by bicycle and have a community garden there in place of that kind of a development.

Then on the other side of Mindemoya in Carnarvon I see a hospital. I'm getting to be a pretty old guy, but years ago I plowed that field where the Mindemoya Hospital is and planted into wheat, one of the most beautiful crops of wheat I ever saw, and I worked in western Canada for two years. Now the hospital's there. I know we have to look after sick people, but there are lots of places it could have been built to far better advantage.

On down the road a little piece farther, in the middle of some of Manitoulin's best land, is a motel. Then when you drive on down the road a little farther and you come to the West Bay Indian reserve and you see probably the best place—I used to go down to West Bay with my grandfather years ago, before there were the social systems that we have now, and that village was a sustainable village. Now the subdivisions and so on in the village are in the very best land that's there. So I'm not sure that we're learning very much.

If you drive up to Gore Bay, where I've gone to do my shopping whenever I couldn't get out of it, because I don't like the town any more, I see the development to the lakeshore, the total destruction of the natural environment. We've got a beautiful boardwalk along an area now that when the drains were put in, they took the soil and filled in the wetlands where the pike spawned.

Natural Resources is pretty upset right now because we haven't got any perch in our area. Some people who used to fill two freezers full, it said in the paper this week, didn't even plug one in this year. Isn't that too bad. And we wonder why we don't have the natural resources. We've got a house built in Gore Bay, a great big mansion, that years ago used to be wetlands for pike to spawn.

When we go down close to Kagawong Lake to where I live, we see very shallow amounts of soil on rock and right close to the shoreline we see areas now drilled down in the rock and blasted, and then put rock in there for septic systems. The sewage goes right in there and goes right into the lake. The people who make them will admit that. "But it's just my job. I just work for the construction company and there's nothing I can do about it."

Not very far from where I live there's a fellow who retired from this area who has spent most of the summer filling in wetlands on a piece of property that he purchased where the pike used to spawn in Kagawong Lake. He's got it pretty well filled in now and one of these days he's going to have two acres of lawn to cut. There are no laws that say—and yet tourism is one of our big industries. But then I guess, of course, we can always just raise some little pickerel in some tanks and let them go in the lake in some kind of a boring fishery like some of the planted forests that we have in northern Ontario.

I read the other day of the MNR's shoreline management plan in our local paper. If you read between the lines, and in many cases you have to, it's a disaster. It doesn't say no to development on any of the lakes on Manitoulin. As a matter of fact, it says we can just go along, business as usual.

It's interesting that MNR 15 years ago at a meeting that I was at talked about Kagawong Lake. Maybe the north isn't as valuable as I like to think it is but there are a lot of people in the south who just come rushing up here in the summertime to get away from it all, but it's harder to do that. MNR talked about 180,000 user days per year on the lake was all that they figured Kagawong Lake could stand and they said it had surpassed that then. That was 15 years ago. They never mention that any more and it's business as usual.

In 15 years lots of development has gone on. There are subdivisions, there are cottages that have gone in, there are sewages that have gone in that we should have said no to at all. We should have said no development in that area at all. That's too fragile to even touch.

It's really interesting. I stopped at the information centre today. I'm just observing today, but I stopped at the information centre, when I'm talking about MNR, in Little Current. I went in there and MNR has a display in Little Current, and I thought it was really interesting. They have the game animals on one side of the display, commercial; on the other side, and I found that just appalling, are the latest fishing lures, the hot lures. MNR is sort of a broker for commodity items.

If we don't change some of these things—you know, our perch are going. We smile when we talk about codfish, but we're losing our northern pike, we're losing our perch, we're losing our ecosystem. We're losing our diversity and we're not working towards a sustainable future into any of our planning at all.

I know a fellow who is the building inspector for one of our municipalities and he's got the poorest septic system of any home that I know of on the island. I don't know what we can do about some of these things, but the thing is that it's so interesting, I went down—I very

seldom go shopping. I don't need to. I'm pretty self-sufficient where I am. But I noticed in our little town, in Gore Bay, the other day that the garlic you can buy comes from China. The apple juice comes from Argentina. I checked it out. It's bottled in little bottles and little cans and little things that you can't deal with at the landfill, but it comes in barrels from Argentina. There was fruit in there from South America. A lot of the spices came from Morocco.

There's no evidence in our town of any move into the future for sustainability, none that I could find. There may be lots there, but regional self-sufficiency in the framework of a sustainable future is not buying food from—not even from southern Ontario or western Canada. The food that we buy now from places that constantly raise monocultures has been soaked to the point with insecticides and pesticides and herbicides that it may not be fit to eat right now. We're taking them out of production in California and we'll do the same thing in Ontario.

1540

I wanted to mention in our planning the constant thinking about a sustainable future. The World Energy Council in the Financial Times in September 1993 talked about us having no oil in 40 years. Well, if they're out a decade or two or even a century, I don't know whether that really matters or not. But we have this term that seems to me rather than sound planning, we're in a mode of—it's a kind of a carryover maybe from the military—but it's mutual assured destruction. That's what it is, and I can take you around and prove it to you. Anyway I'm convinced, and I hope in the future that the municipal planning, with the help of this bill, will help to make a new start towards a sustainable future.

I thank you for the time.

Mr McLean: It was good to hear you reminiscing and talking about how we're ruining our own food plants and how we're some day going to be not living as healthy as we have in the past because of the insecticides and the amount of fertilizers that we are growing on the land. I don't know if you ever go to Barrie or not, but if you can drive around Barrie some time you'll see—

Mr Burt: I've been to Barrie.

Mr McLean: —Georgian College on your left-hand side. I'm a dairy farmer and I picked stones off that field, before Georgian College was built, for \$2 a day with a team of horses and a stone boat. So when you're driving around Barrie you can think of me.

But I want to thank you for relating what you have today to us, keeping us in mind of the problems there are out there. When I look at the Holland Marsh and I look at some of the things that are coming from Florida or California, I have grave concerns about the amount of fertilizers and the insecticides that they are using.

Mr Burt: I would have grave concerns if I had to eat anything off the Holland Marsh today.

Mr McLean: That's right.

Mr Wiseman: I have to confess that I agree with just about everything you said, and what's even more frightening to me is that we seem to be sleepwalking towards

some of these ecological disasters, that we're not just looking at—the symptom is the disappearing of the perch and the pike and so on, but what really we're looking at is the potential for what I call cascading ecological breakdown and that when sections of the ecosystem start to disappear, they take whole other sections with it that we don't have any clue about how to get back together again.

In fact, I was reading just last week that the forestry protection agency in the United States has done some studies on reforested land that was 80 years old. The trees were now quite significant but the ecosystem hasn't come back. You've got trees but you have no flora, fauna or even the ecosystem—

Mr Burt: The Swedes call that a monotonous forest. Their term.

Mr Wiseman: I guess the other thing is that the best land for farming is also the best land for developers to stick the pipes into for their subdivisions, so you've got this conflict. Within our society, we have this property rights movement that says because you own it you can do whatever you want with it.

Mr Burt: Well, it may be that it is, but I don't agree with you at all. I've just finished building a new house and I built it out of local materials that I got off my farm, almost totally, and I looked at a lot of different places that I wanted to put it, where it would be the least environmental impact.

I ended up by building it on the edge of a little cliff, where there's no soil at all on the one side, and I have diversity in that area that's unbelievable. When I'm away—last night my wife used half of the film in her camera taking pictures of some foxes—they had young right beside our house; they've been there all summer—taking pictures out through the window.

The diversity that we have in wildlife, you know, the evening smells of the diversity that's there. We haven't got too damn many swamps either in northern Ontario, in my view, because back behind my house I built a wetlands. I thought if everybody in Ontario were destroying them, maybe I should build one.

I took my granddaughter down there the other day and in a half-hour we saw a muskrat, a blue heron, a pair of mallard ducks, and we saw where a beaver had set up and eat, and this was dry land just a few years ago. The beavers came in there and started it and then they left, and the diversity that's there is unbelievable. That's part of our entertainment and that's part of our world. We could never get that in some kind of a bland field that somebody developed, just to make life more bland. We've got diversity that's unbelievable. I was a long time selecting that site, and I'm really glad I got it. I just love where I live.

Ms Harrington: Just a quick comment. I thank you very much for coming here and bringing your view, which is a visionary view, a long-term view. So often there is only the short-term view. We have to keep listening to people like you. I don't know anywhere in the world where they haven't affected the balance that we have to have for the future, but we have to keep striving

for that balance. So I would encourage you, and pass it along, your spirit, to younger people as well.

Mr Burt: Thanks for letting me come.

Mr Eddy: Thank you for presenting us with the information you have. I appreciate the fact that you are doing organic farming. I'm really surprised, amazed at the number of people in my area—I'm in part of southern Ontario—who indeed are getting into organic farming. It's growing and there's a lot of interest in it, but it's very important. I'm encouraged by some of the improved farming practices in our area, the minimum till, the no till, the environmental plans. So many people are becoming conscious that they must do it better and must do it right.

The question I have is, have you gone through the policies that will be part of the Planning Act in most municipalities, the natural heritage?

Mr Burt: Some of them, briefly. I didn't expect I was even going to be here, to come over to this meeting, so I didn't really go through them very thoroughly.

Mr Eddy: There's a lot of comment about them, and of course they're going to be imposed. They're not subject to review. But I'd like you to take a look at them and, if you have any further comments about them, please get your comments to us because you've made a real contribution. I appreciate your heartfelt concerns about our environment and the future of people in this province.

Mr Burt: I'm a member of the Ecological Farmers Association in Ontario. I was number 23 when I joined and I think there are 740 of us now.

Mr Eddy: That's amazing.

Mr Burt: On the other side, no till quite often means more herbicides, and we're still into the monocultures of corn and ethanol. We're still doing far more bad things than we ever thought of doing as good things.

Mr Eddy: Rotation of crops has come back in my area very strongly.

Mr Burt: Quite often when we think we're doing something pretty good, like the whole ethanol thing, like the energy transfer, making ethanol out of kernels of corn, how far could you get from sanity? So we've got to be careful with every move we make.

Mr Eddy: I note your concern about preservation of topsoil and some of the things that you've mentioned also. Thank you.

The Chair: Mr Burt, we thank you very much. The committee found your presentation very informative.

1550

GEORGE RUST-D'EYE

The Chair: Just to remind the members, Ms Hykin called a while ago to say that she wasn't coming, so we invite Mr George Rust-D'Eye, solicitor. Welcome, Mr Rust-D'Eye.

Mr George Rust-D'Eye: I'll be very brief. I'm addressing two very precise issues arising out of Bill 163. The first one relates entirely to my client, the regional municipality of Sudbury. The second is of much more general significance.

I have submitted a written brief, which I trust all of the

members now have before them. In the written brief I set out precisely what the issues are and the relief that I am seeking from this committee or from the provincial Legislature in dealing with Bill 163.

The first matter is I think what I might call a bit of opportunism on behalf of myself on behalf of the region. There is a provision in Bill 163—it's section 52 at page 66—which would add to the Municipal Act a new section 223.1. That is a section which deals with the dumping of fill and the alteration of grades, and I notice the previous speaker talked about, for instance, the removal of topsoil from properties, and I think that is one of the problems that this particular legislation is intended to deal with.

Legislation of this kind has been requested in the past by a number of municipalities and it has been granted by special act to, I believe, about a dozen of them. The region of Sudbury supports that legislation. The only problem the region has is it would like to have that authority itself. The region in 1991 adopted a resolution asking that that type of power be conferred upon the region.

Just turning briefly to my brief, although I'm not going to through it in detail, at tab 1 is the original request letter whereby I conveyed to the minister of the day, the Honourable David Cooke, the request of Sudbury that it be given the power normally conferred upon local municipalities. As you may know, the region of Sudbury is unique in that the region is the only regional government which exercises local planning powers.

That request was answered by a letter which is set forth in tab 4 of my brief, signed by Mr Cooke, in which he says: "The government is sympathetic to your request.... I would appreciate receiving some assurance that providing this authority to the regional municipality does not conflict with the interests of the local municipalities."

The region went out and circulated all the local municipalities, and starting at tab 5, there is a resolution from every single one of the area municipalities of Sudbury saying, "Yes, please confer that power upon the region." So all the area municipalities also support it.

At tab 3 of my brief, there's a letter dated June 10, 1993, signed by the Minister of Municipal Affairs, Ed Philip, and in the middle of that page it says, "I support the region's request," and then it says, "However, as I'm sure you understand, many pressing priorities are currently occupying the legislative agenda."

At tab 2 there's a further letter, because I kept sending letters back saying, "How's this stuff doing? Are we going to get this legislation?" At tab 2 is a letter from Minister Philip saying, "I fully support dumping of fill legislation for municipalities and your request to grant such authority to the regional municipality of Sudbury."

There seems to be no problem at all in policy. There seems to be no difficulty at all with the fact that in Sudbury it should be done at the regional level, which would be, by the way, a concurrent jurisdiction with the area municipalities. The region and the area municipalities see no difficulty in that, and in fact there is a section in the proposed provision of the Municipal Act which

actually deals with the potential for a conflict between area municipal legislation and regional legislation.

My simple request of this committee is that, now that it is inserting that provision specifically into the Municipal Act available to all local municipalities, it make an amendment to the Regional Municipalities Act, because that's the act actually that centralizes planning jurisdiction in the region. There's one section there that deals only with the region of Sudbury and it basically confers planning jurisdiction on it. My suggestion would be that an amendment to that section in the form I've attached to my brief would serve the purpose, or of course an amendment to the Regional Municipality of Sudbury Act itself.

I think the only reason this hasn't been done in the past is because whereby local municipalities can get a special act amendment, private act legislation, with the regions it has been the policy of this and previous governments that regional statutes are admitted only by public bills.

The second matter that I wish to deal with arises out of the proposal to abolish appeals to the Ontario Municipal Board from committee of adjustment decisions on minor variances. Under the proposed legislation, as this committee is aware, the proposal is that there will be no further appeals to the Ontario Municipal Board from the committee of adjustment for minor variance decisions, and the region certainly takes no issue with that particular decision.

The region has two concerns about this proposed legislation and, to put it in a nutshell, the first is a drafting concern. There is a provision that where the power to deal with minor variance applications is delegated by a municipal council to a committee of adjustment, which committee does not have any members of council on it, then there is a right of the council to also provide that there can be a review, as set forth in the act, by the municipal council of the committee of adjustment's decision on a minor variance.

It is unclear from the form of legislation whether or not the municipality itself may request a review. It sounds a little bit absurd that I should be raising this point because I think that the legislation was intended to have this effect and I think it's well known that many municipalities in fact do become involved in appeals from their committee of adjustment decisions.

The problem is that at the present time it's ambiguous, because you have a situation where the municipality ends up requesting itself to review a decision of the committee of adjustment, and we're very much concerned, and I think this applies to municipalities across the province, there's a concern that that ambiguity could lead to litigation.

I can see a Divisional Court challenge arising in the middle of one of these cases, which I think is one of the things which this committee is trying to avoid. One of the purposes of this legislation, I think, is to streamline the process and to avoid litigation, to confer more powers on local authorities and to enable the public to sort out who has the power to do what.

So the first request I'm making under this second branch of my argument is that the legislation be amended, and I've put forth one proposal as to how it could be done, the specific draft legislation in the back of my brief, to make it clearer that the municipal council may, on its own volition, decide to review a decision of a committee of adjustment.

That flows into my second point on this particular matter. Under the new legislation the primary application for a minor variance is to the municipal council itself. However, and I expect this will be utilized across the province, there will now be powers for the council to delegate to one of its own officials, to a committee of council or to a committee of adjustment, its powers to deal with minor variance applications.

It's my submission that if there is to be a right of review for a municipal council from a committee of adjustment that does not have any council members on it, it follows as a matter of rationality, it follows as a matter of practicality, that there should be the provision for a right of review from a decision of a staff member or officer of the municipality, from a decision of the committee of council of the municipality or from a decision of the committee of adjustment, even though it has one or more members of the council on it.

My only request, and once again I've set forth legislation by which this could be done, is to amend Bill 163 to provide a general right of municipal councils to review subordinate-delegated decision-making on minor variance matters, and I think I've set out the reasoning for this and the difficulty in the legislation. But I think I've given the committee the requests that I have, and I'll be very happy to answer any questions that any members of the committee may have in that regard.

The Chair: We did run out of time, but what I would ask the members, if you want to ask the staff for some clarification on something that was raised, that would be all right.

Mr McLean: I just have one short question with regard to the staff and review. The councils would have the final say, not the OMB? Council would have the final say on a minor variance?

Mr Rust-D'Eye: That's right. In all cases there would be a right of review by the council, but that would be the final word, subject to judicial review. That would be the final word and there would be no appeal to the Ontario Municipal Board.

The Chair: Mr Eddy, an equally short question like that?

Mr Eddy: It wasn't really a question. I'm just pointing out that in the case of some committees of adjustment they are all members of council, and there are several upper tiers that have one-tier planning only, Haldimand-Norfolk, some of the counties, and so there's more of a problem.

It seems to me, going back to the topsoil problem, the dumping of soil, that the easiest way to do it, and I'd like the staff to comment if you would or if there's time, the Topsoil Preservation Act should be amended to include the dumping of soil too, because in reality when you're dumping materials on land you're destroying topsoil. It should be to all municipalities at any level, because to do it just for the regions you're excluding some of the other municipalities. It has to be faced; it needs to be dealt with.

The Chair: Ms Dewar will be looking at that, I guess. There's no immediate answer.

Mr Eddy: The whole package?

Mr Hayes: Yes.

Mr Rust-D'Eye: This section does deal with dumping of fill as well as alteration of grades, so it provides some relief in that regard.

Mr Eddy: But it doesn't go further to deal with the destruction of vegetation, apparently, and trees.

Ms Dewar: We are looking at that section. There have been several issues that have been raised over the last couple of weeks. We are looking at that section. The other question that you asked about the other act, all I can say right now is that we'll look at that and see how the two fit together.

Mr Mike Cooper (Kitchener-Wilmot): Has Sudbury applied for a private bill?

Mr Rust-D'Eye: Not formally, sir, because my own discussions and my own knowledge of the ministry and a lot of background communications back and forth indicated to me there would be no point in trying to do that because the province would not proceed with that.

Mr Cooper: I know one of the points that comes up in that committee a lot is that there should be legislation that covers, because each municipality keeps applying and if we had proper legislation it would help.

The Chair: Mr Rust-D'Eye, we appreciate your coming and your participating in these hearings.

This committee is adjourned until 8:30 tomorrow morning in Ottawa.

The committee adjourned at 1602.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Haeck, Christel (St Catharines-Brock ND)

Harnick, Charles (Willowdale PC)

Malkowski, Gary (York East/-Est ND)

Murphy, Tim (St George-St David L)

Tilson, David (Dufferin-Peel PC)

Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND)

Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Ms Haeck

Eddy, Ron (Brant-Haldimand L) for Mr Murphy

Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Johnson, David (Don Mills PC) for Mr Harnick

McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson

Perruzza, Anthony (Downsview ND) for Mr Bisson

Wiseman, Jim (Durham West/-Ouest ND) for Mr Wilson

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Dewar, Diana, manager, municipal planning policy branch

Forrest, Norma, planner, municipal planning policy branch

Hayes, Pat, parliamentary assistant to minister

Smith, Karen, manager, plans administration branch (north and east)

Wyatt, Patricia, policy adviser, local government policy branch

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Friday 16 September 1994

Journal des débats (Hansard)

Vendredi 16 septembre 1994

Standing committee on administration of justice

Planning and Municipal Statute Law
Amendment Act, 1994

Comité permanent de l'administration de la justice

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

Chair: Rosario Marchese
Clerk: Donna Bryce

Président : Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Friday 16 September 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Vendredi 16 septembre 1994

The committee met at 0834 in the Westin Hotel, Ottawa.

PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): I'd like to call the meeting to order. M. Grandmaître, s'il vous plaît.

Mr Bernard Grandmaître (Ottawa East): I'd like to welcome you to my riding. I'm sure this is going to be the best meeting we've ever had.

The Chair: I hope so. Thank you for that welcome, M. Grandmaître.

CITY OF OTTAWA

The Chair: We welcome the city of Ottawa, Mr Ted Robinson, to this committee. Mr Sterling. I apologize.

Mr Norman W. Sterling (Carleton): I'd just like to add that's the best speech I've ever heard, non-political too.

The Chair: Any other speeches? Mr Robinson, please. Can I ask the rest of you to just keep your voices as low as you can? It's very difficult to hear. You have a half an hour for your presentation. Leave as much time as you can for the members to ask you questions.

Mr Ted Robinson: Thank you. Good morning. I echo Mr Grandmaître's comments: Welcome to Ottawa. After looking at your schedule, it's more, "If this is Friday, it must be Ottawa." You're a well-travelled committee.

I'd like to first of all introduce myself. I'm Ted Robinson, the commissioner of planning for the city of Ottawa. I'd like to thank you very much for the opportunity to speak to you this morning and also for coming to Ottawa to make it easier for us to address the members of the Legislature.

The presentation this morning reflects a report that is going to city council next Wednesday, so I don't have anything to present to you in a written form. That will be

forwarded to you after the meeting next week, so you'll be able to check if what I said accurately reflects the city council's position. I have taken our report through a committee of council, the planning committee, on Tuesday and generally it was pretty well approved as submitted.

For the past two and a half years, the city of Ottawa submitted four reports to the Commission on Planning and Development Reform in Ontario. In addition, we submitted a report responding to a provincial consultation paper last spring, and our presentation today reflects again those comments and concerns that we expressed at that time.

Generally, the city of Ottawa is supportive of Bill 163. I think we find it to be an improvement over the current Planning Act and we welcome any changes that are being proposed in there. We do have two major concerns and then some minor concerns that I think probably can be either clarified later or may add support to other comments you've been hearing from other individuals.

Because we are an urban municipality, I think a lot of the concerns that may be expressed by others you'll be hearing today—I know my colleagues from the region have different concerns than we do. We find the legislation works in many ways, so we're quite satisfied, although we are aware of the regional response. We have also been involved in their preparation as part of the municipalities working with the region.

I guess the first concern, and from what I hear it's been a fundamental concern raised by a number of people, is the change from "have regard to" to "be consistent with." While the city of Ottawa doesn't have a real concern with either wording, the concern is how the "be consistent with" is going to be interpreted. What we would suggest, very briefly—I'm told this is the way it's intended, but to give us the level of comfort—is to add the words "be consistent with the spirit and intent of the policy statements issued under subsection (1)," so it's clear that we're dealing with the intent, not the content. I understand, in talking to staff, that is the intention but I think it needs clarification.

Point number two is more of a minor point. It deals with section 5 of Bill 163, which deals with section 2 of the Planning Act, which would be modified by amending section 2. This applies to provincial intervention. Where it just says "any other matters," we think it should be clarified to say "any other matters that conflict with approved provincial policy." Again, I think it's understood generally when talking to provincial staff, but we think it needs some clarification so it's understood that

provincial ministries will be following essentially their own rules.

Point number 3 isn't in the bill but we'd like to see it in the bill, and that deals with delegation of subdivisions. As the committee is aware, currently there are many agencies or organizations throughout the province that have delegated subdivision approval. Our region of Ottawa-Carleton has delegated approval authority, but the city of Ottawa doesn't. We feel that is an amendment that should be added to the act that allows municipalities within regions to also be given delegated authority, or at least have the opportunity to be able to convince the region that the delegated authority is appropriate for those agencies that are capable of dealing with that responsibility.

In a few minutes you'll be hearing from the region that it has outlined some conditions that it would apply to that and we would certainly support those conditions.

0840

Our fourth point is the other major concern we have, and we're not sure exactly how this is going to work. Maybe the committee can clarify it with us. Generally, dealing with the appeals from the committee of adjustment that are now going to be given to city council, while the intent of that is welcomed, the concern is how that's going to be administered. From what we've been able to determine, the full hearing process will be required by councils much like what the Ontario Municipal Board does now.

When you're dealing with a large municipality like Ottawa where we're dealing with 700 or 800 applications a year and we deal with probably 15 or 20 appeals, the concern is that they will probably double or triple when you're dealing with a city council dealing with appeals; and if we have to go through the full appeal process, the notification, hearing all the concerned citizens, we foresee a hearing a week with council or a committee of council and that just isn't functional with us.

What we are hoping to see or what we intend to try to influence the regulations or ask you today to have this clarified is that council determine how it deals with the appeals and the process. From a functional point of view, our council doesn't hear public delegations, so the onus would then be on staff to present to council the committee of adjustment position, identify the staff position and the concerns and objections raised and advise council on the action it should take and then council would make that determination. If it's not done that way, then the process isn't saving any time at all. In fact, it may take longer to schedule hearings from the committee of adjustment around all the other business of the city.

On the positive side, we'd like to fully support the establishment of the development permit system. Again, we're not sure what form that's going to take, but certainly the form that's being proposed now, that it follow the British Columbia model and that it be voluntary for municipalities to adopt if they see fit, I think is definitely the way to go. It has the potential of adding an extra tool that will address a lot of the concerns we have in bridging the gap between site plan approval and zoning amendments, and we welcome that opportunity.

The sixth point is a minor point, and we're not sure whether it's an oversight or whether it was deliberate, and that deals with subsection 20(2) of the bill, which has paragraphs 3.1, 3.2 and 3.3 to subsection 34(1). It deals specifically with empowering municipalities, through their zoning bylaws, dealing with matters dealing with contaminated lands or sensitive areas, natural features and areas and significant archaeological resources.

In the first and third instance, dealing with contaminated lands and significant archaeological resources, zoning bylaws can be passed that prohibit "all or any use of land and the erecting, locating or using of any class or classes of buildings or structures," yet with the second, dealing with natural features and areas, we're not able to control the use. We can only deal with the location of buildings.

The concern there is that if we're dealing with sensitive environmental areas in the city, and we do have a few before us now, we'd like to be able to deal with the use of those lands, whether it be locating of parking lots or the whole access of the public using those lands. There are some lands even within the city of Ottawa that we would see as being preserves, as opposed to conservation areas or areas that can be heavily used by the public.

Essentially, those are our fundamental comments with Bill 163. We feel there are a few areas the Sewell commission dealt with that are omitted from the bill that we would ask the committee to consider: establishing a monitoring program for provincial policy statements, that they also follow the same principles that municipalities have to do, and that is instituting a five-year review requirement on them for reviewing policy so there's an automatic mechanism for review of policy, particularly now that the new policies are in place. I think it's essential that there be a consistent review process until all the bugs have been worked out in the relationships with municipalities and regions throughout the province to ensure that they're working.

We also like the idea of authorizing income tax credits for land donations, whether it be heritage buildings or conservation lands or environmental lands. Although that's also a federal responsibility, we think the province could show leadership here in providing that opportunity to allow individuals to donate lands to municipalities or the province so that we can more effectively protect key natural and built environmental features.

The last one is the establishing of a lead responsibility in areas of conflicting jurisdiction. Although the city of Ottawa hasn't had a lot of problem here, we have observed it throughout the region, and that is the potential of other ministries wanting them to meet their policies and the potential conflict between ministries. We feel it's important that there be one ministry or agency that reflects the provincial position and is able to say that this position is the dominant or fundamental provincial position, and although we want all others to be addressed where possible, this is the fundamental provincial position.

The last comment with respect to that is that we fully support the alternative dispute resolution process being proposed now. I think in Ottawa we built it into our

system. In fact, it's probably one of the reasons why we have the reputation for having a long permit process. But, as I like to explain to individuals, one of the reasons our processes are long is that we build a lot of that dispute resolution process. We have a very involved public participation process and we do believe that is the way to go, as opposed to the confrontation process that I understand is much more the practice in other parts of Ontario.

The only other two comments I have to make, and those are not going to be in the city of Ottawa position paper—they're more personal-related—are in respect to a concern that I have and it's an emerging one: just the whole issue of protection of environmental lands and looking for a statement that allows everyone to understand whether it's the compensations around environmental protection, and I think you're running into some of that with the provincial wetlands. The city of Ottawa has undertaken a fairly rigorous local environmental policy as expressed in our official plan. We've identified 20 environmentally sensitive sites that are local in nature. The whole issue of how do we acquire those and how do we protect those is a concern.

Fortunately, in Ottawa many of the lands are in federal ownership. Although they're still looking for compensation, it's not quite the same impact that it would have if those lands were privately owned. But we do have sites right now that are, it is a source of conflict and we're finding ourselves having to negotiate development rights, which is fairly easy, but what we're finding now is that we're having to compromise with recreation, 5%, and trade that off with respect to the environmental lands and we don't think that's an adequate tradeoff. I think there needs to be some clarification whether there is compensation or there isn't so it is clear that we either have to negotiate that, purchase it, or we do have the right for compensation.

The last point, and this isn't a really serious one, is something that has come up and it's more of a past practice: the assurance that the provincial positions are strictly going to be those that are expressed in the policy and that the application of guidelines or other documents that are proposed by staff are simply our guidelines—it's been our practice in the past or I've seen in the past that the guidelines have been applied as regulations—and that it be clear to those who are working with provincial staff that the policy statements are the position of the province, not other documentation that supports those.

0850

The Chair: Thank you very much. We'll begin with questions by the different caucuses. There are four minutes. Mr Grandmaitre to begin with questions.

Mr Grandmaitre: I'd like to ask you about your committee of adjustment. As you know, decisions from the committee of adjustment will not be or cannot be appealed to the OMB. Does that mean the city of Ottawa will change the composition of its committee of adjustment and that committee will become a council committee? In other words, the members of the committee of adjustment will be councillors, members of council. Do you intend to change the composition of your committee?

Mr Robinson: It would be my recommendation to

council that we do that. Right now, in Ottawa the committee of adjustment is seen as an independent body of council and the administration. I don't see that working with the proposed legislation. I would see the composition being staff, and it would be a staff review of the committee of adjustment and staff would then report to council through the appeal mechanism.

Mr Grandmaitre: Will council retain the authority to, let's say, review those decisions?

Mr Robinson: Council welcomes that opportunity. The concern that city council will have over that is the time constraints. If we have to follow the full hearing process that's currently used by the OMB, then there will be no saving. It will be extremely onerous on city council. This committee may or may not be aware, but Ottawa has reduced the number of councillors from 16 down to 10. So it's going to be extremely onerous, and their ward boundaries have expanded in response to that. So the time constraints on councillors, I would think, are going to substantially increase, and having this extra responsibility of sitting in a hearing process dealing with appeals will be totally unworkable.

So, in response to that, I would either suggest that if city councils are to be given the authority to hear appeals, then they determine the process that works—I can see in smaller municipalities there's no problem with that, but certainly in the large urban ones it is a fundamental problem just by the volume that we deal with—or that you treat the committee of adjustment delegation as an optional one, like development permits, and for those municipalities that want to adopt that, they can, because I can see many municipalities wanting to, and those that it doesn't suit, they don't.

Checking with the OMB, I understand that minor variance appeals to the OMB are not a big factor in terms of its workload, so it's not a huge saving there, although obviously it is a saving. But I wanted to make it clear to the committee that we welcome that opportunity, provided that the flexibility is there so that we can deal with it in an efficient administrative manner.

Mr Ron Eddy (Brant-Haldimand): If they are indeed minor variances, that's the important thing, minor variances. I'd like to ask you about the delegation of authority. Does the city of Ottawa have the authority to approve subdivisions?

Mr Robinson: No, we don't.

Mr Eddy: You probably know that many cities in Ontario will be given that authority. Of course many of them are not in two-tier systems of government. What's the feeling of city council regarding that? Do you think it should be at the upper tier or do you see it would be even more efficient at the lower-tier level?

Mr Robinson: Certainly in the city of Ottawa, where most of our subdivisions are resubdivisions of blocks of land, primarily administrative in nature, we can handle those very easily.

Mr Eddy: So it would expedite the planning process for subdivisions, then.

Mr Robinson: No question, it would expedite the process. More importantly, right now it's a two-tier

approval, so there's the appearance of duplication, although I don't think there is duplication there. But there certainly is the appearance that you have to get city council approval and regional council approval. I think the city of Ottawa is quite capable of taking that responsibility on and should be able to do so.

Mr Eddy: I'd agree with you.

Mr Sterling: I was interested in your remarks at the end when you talked about compensation vis-à-vis wetlands and that kind of thing. First of all, I have difficulty as we proceed through the planning process in the next decade, in the next 20 or 30 years. It appears to me that future provincial governments are probably going to have to intervene more and more in terms of environmental concerns. It's happening in the United States significantly now, but they have of course a different process.

One of the things that bothered me about the wetlands policy statement has been that it was done in June 1992. The act does not require, and has never required, a debate in the Legislature or a vote in the Legislature on the policy statement. The vote would have been a foregone conclusion, because we have a majority government at Queen's Park. But the problem with not having a debate or any kind of raising of the spectre that this policy statement was coming down was that a huge number of people in the Ottawa-Carleton area, particularly the area that I represent on the outer fringes, were not aware that this was happening to them. Do you think there should be a vote in the Ontario Legislature and not just a cabinet fiat, which is what it is now, when it comes down to major provincial policy planning statements?

Mr Robinson: To be honest, I don't really have a concern one way or the other. I think from a municipality point of view and an implementation concern—which is usually what happens when there's a provincial policy: the municipalities end up implementing it—that it should be clear on what our role is and how we go about doing that. How the province establishes policy, obviously we'd like to be involved with that, but whether they do it the way they do it now or as you proposed is not a major concern. But I think we need more clarity and resources. If you're looking at expecting municipalities to acquire these lands, then obviously we're not able to do it with our current resources.

Mr Sterling: Let's turn to the compensation part. In the United States under the Fifth Amendment of the Constitution they have a clause which says that if there is a take—and that's how they refer to it in planning terms in the United States—you can't take without compensating. But that has been interpreted by the Supreme Court of the United States over the last hundred years in a whole number of ways, all the way from saying that compensation is only required if in fact there is a physical taking, for example a road, down to some more recent decisions in the United States Supreme Court whereby they have been requiring the state of South Carolina to compensate for regulations controlling flooding on the coast.

There's a money problem here. I don't think the provincial government at any time could ever compensate

100% for the wetlands policy or future environmental policies which I think will be required over the next 10 or 20 years. Can you give us any enlightenment on what kind of a compromise you could see in this? In other words, I know clarity is nice, but I don't know whether it's possible.

Mr Robinson: I guess I can only answer it this way: What's happening now is that the disputes we're involved with are being ironed out at the OMB, and depending on the circumstances of the case, you win or lose, or whether we're able to negotiate something with the developer. We've had experiences in both areas.

What we're saying is that that's not the way to do business. If there's an implied intent to protect lands, then I think you have to, first of all, look at whose responsibility it is to do that, because I don't think governments need to own land to protect it. There may be other ways we can protect it. So then the issue is, are our current controls enough that we can protect land in private ownership? If the answer is yes, then the compensation to that might be less than having to acquire it and then also assume the liability of protecting it as well, which is again an ongoing budget concern. So I think those questions have to be asked.

But certainly as an implementing body clarification is required, not so much with the provincial; I think it's clear in terms of trying to protect provincial lands. But where the city of Ottawa is involved, and I would suspect other cities are going to be following us, municipalities are going to start identifying local environmental concerns, whether it be woodlots, smaller wetlands, geographic features like escarpments and things like that, we're going to want to make sure that they're protected in the state they're in now. That's where it's not clear. Although we could go through a public process of identifying those, and I don't think there'd be too much dispute that they're worth protecting, the obvious question then comes up, "Okay, how do you protect them, and who pays for that protection?" and that's not clear.

0900

Ms Evelyn Gigantes (Ottawa Centre): Thank you very much, Mr Robinson. I wonder if I could ask you to go back to the first point that you were raising, which had to do with how we see the changes that are being proposed here, being implemented through the phrase "consistent with" and your point that, from the point of view of the city of Ottawa, it's the spirit and intent that should be the guiding principle here rather than the content of the policy principles which have been proposed. Instead of discussing this in the abstract, I wonder whether you could give us an example that would clarify the difference between those two in your mind.

Mr Robinson: I can't give you a specific example, but maybe I'll try to answer it this way. I think the most significant change that has been proposed to the planning reform is the preparation of provincial policy statements. I think they're far more meaningful than Bill 163. Although Bill 163 has some good things, it's been the clear statement by provincial ministries of what they think is important to the province. But as you are well aware, much more than I am, the province is a very large

province with many diverse elements to it. Trying to provide one set of policies that tries to accommodate all areas of the province is very difficult to do.

I'm sure each area of the province wants to have a certain amount of autonomy to address the provincial concerns, but in their local context. That's going to be done, I know, through the ministerial approval of local official plans. So as municipalities go through the official plan process, they're going to be obligated to incorporate provincial policy into the official plan. That's the only way, I think, you can ever be assured that the policies are going to be enforced by local municipalities through their own policies and eventually through their zoning bylaws.

As you get into the official plan process, then the local municipalities are going to be dealing with all the local conflicts that they have to sort out, in addition to the provincial policies. I believe there has to be the flexibility there to understand the principles of the policy but be able to have the flexibility to incorporate those principles in our official plans.

The concern I have, and it's certainly going to be the fundamental concern of the regions now going through their official plan process, is that there be some flexibility there, that the intent be adopted in the official plan and that we don't get into a battle of words over the specific content of the policy.

Ms Gigantes: But in fact you and I know that when there are struggles of the nature you describe, there will be conflict and there will be argument about the meaning of words on a piece of paper and how they're to be applied in an official plan.

I'd like to get a sharper sense of what it is you mean when you talk about the fact that the principles should be applied so that their intent rather than their content—I'm assuming that the phrasing you're using there is the phrasing that you will see included in the report going to council—and I'd like to know, as clearly as I can, how you see the difference between those two things.

Mr Robinson: I'm not prepared to do that now, but I will undertake to the committee that the report emanating from council will give examples of that concern so you can see that in writing.

Ms Gigantes: Excellent. Thank you.

The Chair: Thank you very much. Mr Rizzo, there is time for a quick question if you want to ask one.

Mr Tony Rizzo (Oakwood): It's okay.

The Chair: Very well. Mr Robinson, we thank you for coming and thank you for sharing your views with this committee.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

The Chair: We invite the Regional Municipality of Ottawa-Carleton, Mr Barry Edgington and Mr Gordon Hunter.

Mr Gord Hunter: Good morning and thank you for this opportunity to present the Regional Municipality of Ottawa-Carleton's position on Bill 163. My name is Gord Hunter, and I'm chair of the region's planning committee, an appointment I've held for the past nine years. As such, I am regional council's representative here today.

I am joined by Barry Edgington, the director of the region's plans administration division, who will be providing you with a technical briefing on regional council's concerns deemed most deserving of your attention. Also joining me are Jim O'Brien, the region's director of development law, and Andrew Hope, a manager in the region's plans administration division, as resource persons should questions arise that require their input.

Regional council would like to extend its welcome to committee members and notes its appreciation for yet another opportunity to provide commentary on what has been a constructive process of consultation leading to the reform of Ontario's planing process.

The documents before committee now comprise a July 27, 1994, staff report on Bill 163 as well as the minutes of regional planning committee and regional council meetings summarizing amendments that have been made to the staff report. We would like to draw to your attention the format of the staff report. It contains 22 specific recommendations and numerous proposed wording changes in the attached annexes 1 and 2. We would ask that the committee members consider these documents as regional council's position on Bill 163.

Regional council commends the government for acting with dispatch in attempting to implement the final report recommendations of the Commission on Planning and Development Reform in Ontario, the Sewell commission. Regional council has long encouraged constructive changes to Ontario's planning process, as it is widely recognized that the existing planning process needs updating.

By way of background, I would like to point out that regional council has committed considerable time and resources to the reform process that has to date culminated in Bill 163. As an active participant in the initial process, regional council contributed no less than four briefs to the commission directly and one to the Ministry of Municipal Affairs on its policy paper, *A New Approach to Land Use Planning*.

It is through these efforts that regional council has demonstrated and continues to demonstrate its commitment to reforming Ontario's planning process. Council endorses the province's stated goals for Planning Act reform, namely, empowering municipalities, protecting the environment and streamlining the planning process. Having said that, regional council submits that much work still needs to be done on Bill 163 to ensure that municipalities are in fact empowered and that Ontario's planning process is streamlined.

With these brief remarks to set the tone, I will turn the presentation over to Mr Edgington to highlight regional council's position on specific issues relating to Bill 163.

Mr Barry Edgington: As Bill 163 is a process-oriented draft legislation, my presentation will focus primarily on what regional staff and council believe are necessary changes that will uphold the region's long-standing leadership role in streamlining.

To give you a brief feel on some of the history involved in this regard, I will highlight some of the more

specific, successful streamlining efforts the region has made over the last few years while I've been involved with the process.

As you are probably familiar, Ottawa-Carleton was one of the first regions in Ontario to receive the full range of provincial-delegated approval functions. This included consent-granting authority in 1974, subdivision and condo approval authority in 1975 and 1977 respectively and local official plan approval authority in 1980. These moves by the province to decentralize approval authority to the regions resulted in substantial progress towards streamlining the whole approval process. Finally you didn't have to go down to Toronto; you could do it regionally within Ontario, which was a tremendous step forward.

In addition, regional council over the years has further delegated its authority to certain regional staff to approve undisputed local official plan amendments, subdivisions and condominium plans. This also has had a significant impact in streamlining the approvals process here in Ottawa-Carleton.

In addition, a few years ago we established a regional streamlining committee that includes participation from the region, the area municipalities as well as the consultant and development industry. This is a permanent committee that was set up by the regional and area municipal planning commissioners, which I've chaired for the last two or three years, and that also has come up with some methods to try to improve and streamline the process. One example is where we had a joint subdivision application form. Five of our urban municipalities now jointly participate with us when we ask the applicants to submit an application form and circulate it.

We're trying to avoid the duplication in the process a little bit by at least trying to provide one-stop shopping for our urban municipalities that do have the staff that can administer the receipt of the application and the circulation of it, and then we carry on the process after that; a lot of big advantages there.

We've also tried to standardize some of the regional and local subdivision approval conditions so that the industry has one set of standard conditions to deal with, and we've done a lot of joint planning initiatives with the area municipalities in the region here, between the region and the planning staffs at the local level.

All of these refinements and improvements that we've made to the planning process here have really served to reduce the commenting time frames and have allowed regional staff to really try to expedite the development approvals.

Regional council submits that these successes should be used as a starting point for consideration of any changes proposed by Bill 163. Given regional council's keen interest in streamlining, the proposal in Bill 163 to impose the 150- and 180-day limits for processing official plans and subdivision applications respectively I think is a very positive step, as does council.

The regressive step that council feels is an omission from Bill 163 is the lack of authority to enable regional council to delegate to regional staff the approval of

undisputed local official plan amendments, as well as draft plan of subdivision and condominium applications. Committee members should be aware that this well-established streamlining initiative has been responsible for saving some four to six weeks off the typical approval time frames. Regional council views the maintenance of this provision as critical if the province is serious about streamlining.

0910

In terms of regional council's recommended changes with respect to the streamlining aspects of Bill 163, I would ask you to please give serious consideration to the following:

Public bodies, such as MOEE, MNR, MTO, OMAFRA, should be required to adhere to the same commenting requirements as every other player in the planning process. Meaningful streamlining requires that the provisions of subsections 17(30) and 51(42) that exempt public bodies from making either an oral submission at a public meeting or making a written submission prior to a decision being made should be deleted from the bill.

I know from experience that when you're circulating these agencies for comments, these comments are quite often very critical to the types of approvals we give, the region acting as the minister, and modifications from some of the key provincial agencies are essential before we can recommend approval of a lot these official plan amendments and subdivisions. It's important that they're involved in the time frames that we are now under. If we're being asked to meet these deadlines, I think it's only fair to ask the commenting bodies to do the same.

Also, the appeals to draft plans of subdivision, condominium consents and zoning applications should not be forwarded to the Ontario Municipal Board without being subjected to tests similar to those outlined in subsection 17(29). While automatic appeals give the appearance of ensuring each applicant can get before the Ontario Municipal Board, many such appeals could be eliminated if approval authorities are vested with the responsibility of subjecting appeals to tests similar to those in subsection 17(29) and through the judicious use of the tools of alternate dispute resolution.

Cabinet should not be given the opportunity or the authority to revisit decisions of the Ontario Municipal Board, in our view, as this permits the inappropriate intermingling of the Legislature with the judiciary and exposes applicants and municipalities alike to further uncertainty and delay. Therefore, regional council has suggested that subsections 17(45) through (47) should be struck from the bill.

Furthermore, the approval authority should be spared the potential requirement of clause 51(14)(b) to hold a public meeting on draft plans of subdivision and condominium applications. Committee members should be aware that in this region, as Mr Robinson has already indicated, local municipalities already hold meetings of their respective planning committee—these are public meetings—to consider subdivision and condominium applications. Such meetings are open to the public and typically advertised in a local newspaper. To repeat this

process by the approval authority is redundant and unnecessary.

Public meeting requirements should be earlier in the process than proposed under Bill 163, in order to give municipalities more time to resolve conflicts should they arise. What's more, following a planning decision, further public notice should be limited to only those who have an interest in the application.

Regional council's 11-step alternative public notification process is outlined in the submitted report that you have before you. Public notice requirements for changes to conditions of draft plan approvals should be limited to the applicant, the agency and the local municipality concerned. Subsection 51(34) of the bill should be amended to ensure that the applicants and approval authorities are not burdened with onerous and unnecessary public notice requirements involving changed conditions of a draft plan approval nature. Please note that regional council remains optimistic that the public notice requirements associated with Bill 163 will be clarified when the regulations are released.

Moreover, the province should be commended for involving regional staff in the preparation of these regulations. In fact, some of my staff, including Andrew Hope, are working with your staff in Toronto to try to come up with these regulations.

Finally, to conclude my remarks, regional council suggests that the approval authority for subdivision and condominium applications could be assigned to lower-tier municipalities within the two-tiered system, subject to the following assignment criteria: (1) the existence of an adequate complement of professional planning staff; (2) conformity of the lower-tier official plan with the upper-tier official plan and, by extension, provincial policy statements; (3) the conformity of the lower-tier zoning bylaw with the upper-tier official plan; (4) a commitment to an ongoing funding of a planning operation at the local level; and (5) conformity of the lower-tier servicing or phasing plan with the upper-tier master servicing plan.

Mr Hunter: Thank you, Mr Edgington. I'm going to summarize my summary remarks so we'll have enough time for your questions, but I did want to make a few points.

First is that we can all agree that today's economic climate dictates that Ontario must rationalize its planning process to ensure that its competitive position in the global context is enhanced. As has been previously mentioned, regional council has bought into the province's goals for Planning Act reform. However, it is council's submission that there is a better balance to be struck than that proposed by Bill 163.

To this end, regional council urges the standing committee to recommend the revisions necessary:

(1) To ensure that the implementation of provincial policy statements require flexibility and a sensitivity to local circumstance;

(2) To ensure that public bodies are subject to the same process requirements as everyone else;

(3) To ensure that approval authorities are vested with the power to refuse Ontario Municipal Board referral

requests that are without merit for the full gamut of development applications, such as consent and subdivision applications;

(4) To ensure that the provincial cabinet is removed from the development approvals process;

(5) To ensure that the environmental assessment and planning processes are better harmonized;

(6) To ensure that delegation of approval authority from the councils of approval authorities to municipal staff is still possible;

(7) To ensure that delegation of subdivision and condominium approval authority is possible but only subject to certain criteria;

(8) To ensure that public notice requirements are rationalized such that they do not impose needless delay or cost;

(9) To ensure that the province is required to act upon those recommendations of the Sewell commission's final report that have not been addressed to date;

(10) To ensure that provincial ministries and agencies are provided with the resources sufficient to fulfil their respective mandates; and

(11) To ensure that the province commits itself to a consultation process on new provincial policy statements and future changes to the provincial policy statements as well as their attendant guidelines.

Further to that, at planning committee we passed a motion that—and this is relevant to Mr Sterling's question earlier to Mr Robinson—that all provincial policy statements must be approved by the Legislature prior to implementation. We feel very strongly about that point.

Regional council firmly believes the role of the standing committee is to come up with better legislation.

Regional council asks that the standing committee act on all of the recommendations outlined in our written submission. Let the province and its municipalities share responsibility for a more positive planning process that will build Ontario a brighter future.

0920

Mr Noble Villeneuve (S-D-G & East Grenville): Gentlemen, thank you very much. Do I detect that in spite of what we've heard that the municipalities and RMOC would have more autonomy with the very, very much more stringent regulations, and I think you're speaking of regulations right near the end of your summation here, because we do not deal with regulations—we deal with legislation. Regulation is a beast that comes out of ministries and that runs out of control sometimes.

Autonomy, flexibility, time and hopefully a reduction in cost of land: Do you see this happening with this bill, do you see the reverse, or what are your comments?

Mr Hunter: Personally, I see a mixture. There are some things that improve the planning process and some things that purport to improve it, but really can serve as roadblocks to extending the process and increasing the cost of bringing development applications on stream.

Mr Edgington: I personally think that there are some good aspects of the bill, but I'm afraid that instead of streamlining initiatives, there are some real roadblock

initiatives to expediting the process. I think there's got to be a balance of where you build in the public notice with the practicality of the administration of the day-to-day items. I think it's very essential for the legislation to be quite clear, and possibly the regulations can then get into the level of detail where we can provide some flexibility and actually spell out how the public notice procedures are going to work, and I have some confidence that that's going to happen.

But my biggest concern is that we don't take some steps backward. I think we've made some real progress here in the province, starting, as I said earlier, with the provincial delegation down to the regions. Now the area municipalities and the regions have become more sophisticated and I think that could maybe work at certain levels within the urban framework.

The problem is we're still going to be stuck with a joint process here. The rural municipalities don't have the staff to administer it, so we'll still be approving subdivisions in the rural municipalities, maybe five or six of them, but the urban municipalities will be doing it for the more urban areas. The suburban areas will have the authority. So it's going to be a blend of what it is now.

Mr Villeneuve: You see the two tiers as still being miles apart. You didn't touch on minor variances on variances and that's become a bit of a problem. Minor variances can sometimes, in some instances, bring a totally different use to an area under a minor variance. Do you have a problem dealing with that?

Mr Edgington: No. In fact, I have more confidence in the local municipality being able to distinguish between when is a minor variance a zoning bylaw, and for the most part, early in the process in 1974 we, acting as the minister, were monitoring that situation, and we monitored it for about five or six years to the point where we said, "It's not worth the staff resources to monitor that any more," because the area level was doing a perfectly fine job. So we have actually backed out of a lot of that monitoring now and the area municipalities are doing a fairly decent job of it.

Mr Sterling: I'd like to ask the parliamentary assistant, what is the objection to the delegation argument which they're putting forward this morning? Why does the bill not permit delegation from an upper tier to a lower tier for these things?

Mr Pat Hayes (Essex-Kent): Actually, we've heard this many times and this is one of the motions or amendments that we are looking at right now which will certainly be addressing that issue.

Mr Sterling: So you're willing to accept it then, are you?

Mr Hayes: It appears that we may do that, yes.

Ms Gigantes: I was curious. I'd like to ask staff, on the question of a declaration of provincial interest matter under this legislation, what has been the experience over the last, say, five to 10 years in terms of declaration of provincial interest under the Planning Act? My recollection is that it's been very limited in use.

Ms Pat Boeckner: Your recollection is correct. My name is Pat Boeckner and I'm with the Ministry of

Municipal Affairs. There have been only a few declarations of provincial interest. One of them has been on the Toronto waterfront. I think the earliest or the first one was with development infringing on the Thunder Bay airport, and there have only been a couple of others.

Ms Gigantes: Can you, from the staff point of view, provide a description of where you think a provincial interest statement can be of value? In other words, what kinds of situations produce the likelihood that the province may want to express a direct provincial interest in a planning matter, even though an official plan has already been approved? Is it essentially because new proposals or new kinds of developments that hadn't been contemplated before are put forward under an official plan?

Ms Boeckner: Generally, it's less that there are new developments as opposed to new issues of provincial interest. As an example, before we had an affordable housing policy statement, when the issues of affordable housing were only surfacing in the mid-1980s, the provincial interest declaration was used at that time to delay some activities in municipalities which were resulting in the dividing of properties and the selling off of what were rental properties. That would be one example where there's an issue of a rising provincial concern.

Equally, the Toronto waterfront situation is another example. There was a growing public concern that municipalities all over Ontario were developing their waterfronts to the extent that access was being cut off from the public. So there was an intervention at that time and we subsequently felt that there was no need to actually do a provincial policy, because municipalities across Ontario responded very quickly to those concerns and dealt with them at their local level.

Ms Gigantes: The question that's been raised with us here is: Why have a provincial interest declaration in a revised system in which there will be an updating, presumably, of provincial policies that provide the framework for planning matters and there will also be an ongoing evaluation of how this process is working in terms of provincial planning goals? Can you give us some clear indication of why it might be necessary to leave that as an outside possibility, even though you indicate it's used very infrequently?

Ms Boeckner: I would just say that, based on past experience, it has been used in those examples that I gave you, where there was no anticipated basis for developing a provincial policy, but the basis came along or evolved—

Ms Gigantes: The case created the policy, in other words?

Ms Boeckner: Yes. The other thing that I'd ask you to keep in mind is that there are many requests on a yearly basis for this to be used. The use of it is considered at the cabinet level, so it is discussed thoroughly. The requests come from right across the board. They frequently come from municipalities, which find that perhaps the Planning Act doesn't give them the tools they need on a particular issue, or come from the public or from other ministries and other public bodies; so it's a useful tool.

Mr Alvin Curling (Scarborough North): Thank you for a very detailed and extensive written brief and also a summary of what you had here. One of the problems we have with these omnibus bills, is the short time when we get to analyse some of the things you have and for us to ask you certain questions. But there are always motives why they push an omnibus bill: so that certain things can be hidden and passed hurriedly without the people having a good debate on it.

You had mentioned, as a matter of fact, and what you have stated is consistent with many of the things we've been hearing around the province about this legislation, especially in regard to the policy aspect of it and, furthermore, to the manner in which the Sewell report was treated. You stated too that of the 98 recommendations of the Sewell commission, you may have judged that about 48 that were not being acted upon.

The parliamentary assistant said maybe it's only about a third of the stuff they took, after spending about \$3 million and after Sewell himself indicated that he has learned so much and understood what the province was all about in regard to municipalities.

0930

One of the things you stated here, which is not for debate very often inside the statements made by the government, is a five-year review of the policy statement. The fact is that things evolve so much around the municipality, things have changed dramatically. I'm sure five years ago in this region it was not the same.

What would you say to this government and to us, legislators, listening to the municipality? Could you tell us or tell the Chair what to do in order to change their mind about looking at the policy and reviewing the policy in the next five years?

Mr Hunter: The provincial policy statements?

Mr Curling: Yes.

Mr Hunter: First, I feel very strongly, as the planning committee stated, that policy statements should not be forced on municipalities and the regions of Ontario without a review by the Legislature and without approval by the Legislature. It should be also very clear that the regulations that flow out of the policy statements should be reviewed by a legislative committee, if not brought into law. I understand that's the way the process in Ontario works.

What we have is a very cast-in-stone official plan, and this may speak a bit contrary to the point that's made here, but our regional official plan is very difficult to amend. It becomes almost impossible to keep it current if regulations concerning the flow-out of policy statements and the policy statements themselves can be changed at the behest or whim of a ministry or by order in council without review by the Legislature, without public review. You're going to hear a lot of talk this afternoon, presentations by groups concerned about the wetlands policy statement, and Mr Sterling has already commented on that.

We found ourselves as councillors in the position of putting forward an official plan amendment based on a policy statement and based on regulations flowing out of

that policy statement, while the regulations themselves were changing. In particular, we were expected to cast into our official plan schedule a map designating wetlands and adjacent lands, while the criteria to call what is a wetland of a particular class were changing in the ministry. How can we deal with that?

We can have a review of the policy statements because, you know, it is a changing situation throughout the province. We must allow terminology in our official plans that allows us to have "regard to" the policy statements and not conform completely to them if they're going to be changing in such a situation.

Mr Curling: Is this a more efficient bill that will slow down the process, or will it speed it up? It talks about streamlining it to make it more efficient. Will this make it more efficient?

Mr Edgington: In its present form, no.

The Chair: We've run out of time. Thank you for coming and for participating in these hearings.

CITY OF GLOUCESTER

The Chair: We invite the City of Gloucester, Mr Dave Darch, Ms Ann Tremblay. Welcome.

Mr Dave Darch: Thank you, Mr Chairman. As you indicated, my name is Dave Darch. I'm the commissioner of development for the city of Gloucester, and Ms Ann Tremblay is senior policy planner for the development department.

First, I'd like to express thanks for the ability to appear before the committee today to provide Gloucester's perspective on Bill 163. We're certainly supportive of the reform that's being proposed to the planning and development procedures in the province. I think, as was stated by Mr Edgington earlier, there are some very positive steps contained in Bill 163. However, we do feel there are some other initiatives which could be taken that could further streamline the process.

Our particular council considered three staff reports, one dealing with the conflict of interest, the open council meeting and the disposal of surplus lands. There was a second report that dealt with the changes to the Planning Act, and the third report related to the provincial policy statements. I believe you've received copies of those particular reports. I won't go into all the details of it, but I will try and confine my discussion here today to the more salient points of Bill 163.

The first relates to the Sewell commission's recommendations, and more particularly 12, 14, and 15, with respect to the centralization of planning activities in the province. As somewhat of an aside, our particular organization went through a restructuring in the earlier part of this year. I heard the terminology earlier "one-stop shopping"; we created a development department where we took all of the development activities within the corporation and we consolidated them into the newly formed development department.

One of the concerns we've had, certainly from a provincial perspective, is that we deal with a number of ministries that are developing policies, procedures, standards in relation to planning and development matters, and at times they're not always compatible with

one another. We certainly are supportive of centralization of planning and development activities in the province. I'm not sure if there have been any initiatives taken to do that, but I guess what we would like to do is reinforce the necessity for a focal point for municipalities to contact the province in relation to matters, and we're certainly supportive of the recommendations that were contained in the Sewell report.

We do have some concerns with respect to the decisions consistent with provincial policy statements—that's contained on page 5 of Bill 163—and more particularly, with the wording "shall be consistent with." We're concerned that this will eliminate flexibility for the local municipality to apply and adapt the provincial policies so that they're consistent with local land circumstances. We would like to suggest—I believe I came in part-way through the city of Ottawa's presentation—a wording similar to what they were proposing, that the wording be changed to "shall be consistent with the spirit and intent of the policy statement."

The city also has some concerns with respect to section 41 on page 58 in relation to the additional matters of provincial interest. It would appear that this provision allows the province to prescribe other matters of provincial interest. This can be done by regulation, so the province can prescribe these without notification, discussion or appeal. At least, that's our understanding. We don't feel this is necessarily consistent with a democratic process and we would like to see that any matters of provincial interest be incorporated via an amendment to section 2 of the Planning Act. Accordingly, we're recommending that section 41 be deleted, as well as some other associated clauses in relation to this principle.

Another area of concern is in regard to environmental assessment and related to the Sewell commission's recommendation 48 regarding environmental assessment. The Sewell commission recommended that the legislation be amended to provide that plans and plan amendments which are approved under the comprehensive planning process not be subject to the provisions of the Environmental Assessment Act. The city strongly supports this recommendation and we were somewhat disappointed to find that it was not addressed in Bill 163. It's our position that it does make sense that the background material and the planning process leading to an official plan or plan amendment should satisfy at least the initial phases of environmental assessment. We are recommending that section 9, affecting section 16.1, be modified to entrench the intent of the Sewell commission's recommendation number 48.

Two matters relating to plans of subdivision: The first one I believe you've heard already and that relates to plans of subdivision being approved at the regional level. It's our feeling that policy issues relating to development are entrenched prior to the plan of subdivision and that the requirement for an upper-tier municipality to give approval of a plan of subdivision is unnecessary and in fact is counterproductive to streamlining the development approval process.

We accordingly support that the delegation of authority for approval be given to the local municipality. I would

reiterate the conditions where we would see this authority being given and I'll just repeat those: the existence of an adequate complement of professional planning staff; conformity of lower-tier official plan with the upper tier; conformity of the lower-tier zoning bylaw with the upper-tier's official plan; commitment to an ongoing funding for the planning operation; and lastly, the conformity of the lower-tier servicing or phasing plan with the upper-tier's master servicing plan.

0940

I believe in our particular situation that the city of Gloucester would certainly comply with all of those conditions and we feel it is appropriate that the responsibility be delegated to the local municipality.

Another matter relating to the plans of subdivision relates to public meetings. We don't feel that there is a necessity to have a public meeting. There is a statement, "if required by regulation." We're not sure what those regulations may be. I don't believe we've seen those. Again, we don't feel this is a positive step in the planning process and may result in unnecessary delays.

The municipality does have adequate consultation processes in dealing with policies and zoning matters, which are traditionally done prior to the plan of subdivision stage. Accordingly, we would recommend that clause 51(14)(b), under section 28, be deleted from Bill 163.

With respect to approval of official plans and official plan amendments, this is referred to in subsection (10) on page 12 of the bill. It indicates that this subprovision restricts official plan and official plan amendment approvals until 30 days have elapsed from the date of the public hearing.

We are requesting that this restriction be deleted. We're not clear on the benefits of this particular initiative. Typically, the city of Gloucester, and I know other municipalities as well, forwards official plans and official plan amendment proposals to councils one week following public meetings at planning advisory committees. On occasion, the city of Gloucester in fact has conducted special council meetings the same evening as the planning advisory committee consideration to try and streamline the process and benefit the parties affected.

The last point relates to the Sewell commission report, more particularly recommendation number 64. We are suggesting that in relation to site plan authority, the Sewell commission recommendation, parts (a) and (b), should be incorporated into Bill 163 in that it allows the municipality the option of conducting public processes in relation to site plan matters and also broadens the authority of the municipality in terms of imposing offsite matters. We feel that this is a positive initiative and we would like to see that these two provisions be added to subsection 22(2) of the Planning Act.

That concludes our presentation on the matter. We'll endeavour to respond to your questions.

Ms Gigantes: I'll be as brief as I can. I'd like to ask about the process you're describing in which there is a legislative framework at the provincial level, there are planning policies at the provincial level. Those require the regional municipalities, as the upper-tier governments,

to create official plans that are consistent with both the framework and the policies. Then, at the municipal level, what you're suggesting is that the municipal plan, which also must be judged by the upper-tier municipality to be consistent with its official plan, should be implemented and all decisions about it should be made at the municipal level. Is that the regime that you're proposing?

Ms Ann Tremblay: Just on a point of clarification, are we talking about official plan and plan amendments specifically, or plans of subdivision?

Ms Gigantes: Either one.

Ms Tremblay: Well, what we're requesting is that at the lower tier, the approval for plans and subdivisions be provided, but for official plans, it wasn't our intent to be proposing that.

Ms Gigantes: Okay. So what this would mean is that if Gloucester receives a proposal for a plan of subdivision, then that would not need to be approved by the regional municipality?

Ms Tremblay: That's correct.

Ms Gigantes: And you would give that authority to all municipalities within our region, for example?

Ms Tremblay: We would give that authority to all municipalities which comply with the conditions that Mr Darch read out.

Ms Gigantes: Could you remind us again what those conditions are?

Mr Darch: All right. Ms Tremblay will read those.

Ms Gigantes: Can you refer us to anything you've provided here? I have difficulty following the presentation and the report that you've provided.

Ms Tremblay: In actual fact, I think the region's report clearly identifies that, because the matter had been regionally discussed at that time.

Ms Gigantes: Could you refer me to that?

Ms Tremblay: It's on page 32 of the region's report. It deals with responsibility for condominium approvals, section 3.6. The recommendation by regional planning committee was that the authority for plans of subdivision be delegated to lower-tier municipalities, provided that there is first the existence of an adequate complement of professional planning staff; secondly, that there is conformity of the lower-tier official plan with the upper-tier official plan and, by extension, the provincial policy matters; thirdly, the conformity of the lower-tier zoning bylaw with the upper-tier official plan; fourthly, a commitment to ongoing funding for the planning operation; and finally, conformity to the lower tier's servicing and phasing plan with the upper tier's master servicing plan.

Ms Gigantes: I wonder if we could get a copy of that, because I can't find the reference in the material I have from the region this morning.

Mr Gary Wilson (Kingston and The Islands): On the question of plans of subdivision, as I understand it, you don't see the need for the public notice or hearings because apparently the provisions that are there now are serving that purpose. Is that right? Because we're hearing in our submissions that there is a lot of cases where the

public isn't aware of what the proposals are, and I would think if you were doing it already, then you would have no objection to putting it in the legislation that it be a requirement. I don't see then why that would necessarily be a roadblock in the approval process.

Ms Tremblay: The city has typically dealt with plans of subdivision at the same time that it deals with the zoning applications, and under the Planning Act, there is a public meeting requirement for zoning applications. That's how it's normally occurred.

For plans of subdivisions alone, where zoning and official plan designations have already been discussed, the city's position is that it's no longer a policy matter because those issues have been discussed already in a public forum and that in fact it becomes a technical matter that can be best dealt with by the planning advisory committee. Of course, the application is taken to planning committee, and that's a public meeting in itself—not a formal public meeting, though.

0950

Mr Curling: Thanks again for your presentation. You have expressed some concerns, really, especially in part B about economic and community development and infrastructure policies. One of the things I had mentioned to the previous presenter was the short time which we have, and more or less the complement would be the implementation guidelines, which the ministry has told you emphatically that it doesn't have the time frame in which to prepare these implementation guidelines. Therefore, you don't know what you're walking into and how it will be implemented.

Furthermore, you will not get the regulations anyhow. We have written that off, although the government thought they would have sent that forward. What kind of problems would you have not having the implementation guidelines to go along with your official plans?

Ms Tremblay: Our concern with the lack of implementation guidelines at this time is that—our experience has been in the implementation of provincial policy initiatives that there's been some conflict in the past and some cross-jurisdictions. We are hoping that the implementation guidelines would include a comprehensive and coherent review of some of those things so that we won't be in a position, when we try to implement some of the provincial policies, that we're going to be running into some real obstacles and conflicts.

Mr Darch: In terms of a practical example, we've had some difficulties with things like water quality standards. The Ministry of Natural Resources and the Ministry of Environment and Energy have different standards. We're trying to satisfy both agencies, and I guess we're looking for that central focal point.

Mr Curling: That is consistent with what we're hearing too. One of the suggestions that you had made here was that maybe they should delay this, not rushing into it because they need to bring this in by January 1995. Do you think this is possible at all, or what other suggestions do you give to the government?

Ms Tremblay: Staff's position is that if the real intent is to promote and achieve streamlining, that in essence to

do so you would need to have the clear mandates, the clear guidelines for municipalities to implement the policies. What we're suggesting is if it's the province's wish to make amendments to the Planning Act, do so, but postpone the implementation of the guidelines and the policy statements until you've been able to iron out some of the difficulties there are right now.

Mr Eddy: Thank you for your presentation. As a person opposed to two-tier planning in Ontario because of the high cost and what I've always considered the inefficiency due to conflicts between the tiers, I must say you've enlightened me as to the cooperation in this particular municipality and I don't think we need to be going through what we're going. We could have talked to you people to improve the Planning Act, but we did. This is out of character for me, but I'm frustrated with this damn system.

We had a Sewell commission which we didn't need. We spent \$3 million on it, going across this province, at least two sets of hearings to hear experts in the planning field who implement the procedures of the Planning Act, and now we have a bill that we're dealing with and everybody that comes before us says: "Sewell was better here; Sewell was better there. Why didn't you follow"—why in hell didn't we follow Sewell more? It's a waste of bloody time.

I'm getting the message, and I'm getting the message about the roadblocks and the cost. You have so many good points that could be implemented in this bill. We have provincial policies that are not subject to review and you're going to have to follow them, and don't think that you get flexibility on "be consistent with."

My question is, is Sewell a better document and should the recommendations of Sewell have been implemented in the bill to a far higher degree than what we've got before us today, from your point of view of making the planning process in Ontario more efficient and more acceptable to all concerned?

Ms Tremblay: Having had the opportunity to review both the Sewell commission's recommendations and the bill, the city's position is that the bill goes some way in actually implementing—

Mr Eddy: Some way, yes.

Ms Tremblay: That's right. What we're saying is, it's not far enough.

Mr Eddy: Exactly.

Ms Tremblay: There are some recommendations that definitely need to be considered.

Mr Eddy: Well, that's what I keep hearing time after time after time.

Mr Darch: I guess all I can do is just reiterate what Ms Tremblay has said. There have been some of the Sewell report recommendations that are being implemented; we're supportive of those. There are others, though, and we've articulated some of those, that I think should be—

Mr Eddy: And you do see some roadblocks in the new system.

The Chair: Thank you very much.

Mr Eddy: That's been mentioned by several people. And let's get rid of the roadblocks.

The Chair: Thank you, Mr Eddy.

Mr Eddy: Planning shouldn't have roadblocks.

The Chair: Mr Eddy.

Mr Eddy: Yes?

The Chair: Thank you.

Mr Villeneuve: Thank you very much for your presentation on behalf of Gloucester. In the new act, 163, in the past, how have the ministries reacted to your approval or to your submissions regarding a change in the OP or a subdivision or what have you? Are you running into a big time lag?

Ms Tremblay: Certainly in any other agency right now in planning there are some resource problems, and I think that can speak to some of the problems with trying to get planning approvals in a timely manner. There are other complications that we also have run across where we've had some larger projects that we wanted approved or official plan amendments, and some of those things had to do with what Mr Darch had talked about where there are cross-jurisdictions, for example on water quality and that kind of thing. It's taken a little longer to get approvals for that kind of thing because, of course, you have to sit down with all the parties and agree as to what's really trying to be achieved.

Mr Villeneuve: In your opinion, will 163 solve that or compound it?

Mr Darch: I think there are elements in 163 that will solve it. Some of the suggestions we've advanced today I think will even go further in doing that. I'd harken back to one of the first points I made, and that was on centralizing planning and development activities in the province. As I think Ms Tremblay just said, in one of our larger development areas in the city of Gloucester we were having to deal with different ministries that had different standards, different policies. From our perspective, we don't see why there can't be one provincial standard or policy. If the province can centralize that along the lines of what was recommended in the Sewell report, we think that will go a long way so that in terms of streamlining the process, the municipality will have one contact in relation to these matters rather than going to a number of agencies that are dealing with planning and development matters.

Mr Villeneuve: Time is cost, and any time that time is lost you run into major problems. Do you feel there should be a limit of time for ministries to respond? At times they respond with a green light or a semi-green light with some caution; other times there are questions that to me seem very trivial and they take time. Your comments?

Mr Darch: I would like to see a specified time limit, but I think you have to look at the nature of the application which you're looking at. Some things are very routine and I don't see why they those can't be addressed quickly. I appreciate it because we get requested for comments on various things as well—some things are just more involved. That's been probably one of the frustrations that we have in our development process—let's say

inordinate lengths of time in terms of responding to some of our applications.

Mr Sterling: This is raised by the delegation here today. I would like you, Mr Chairman, to consider, before you do clause-by-clause, this request, and that is, to consider whether in fact section 41 of Bill 163 is in order. I'll just briefly put my argument.

Section 3(1) gives the cabinet the right to make a regulation in planning that in the opinion of the minister—power of provincial interest. Then section 5 of this bill changes what the definition of a provincial interest is. I think that both section 41 and 5(q), where you allow “any other matters prescribed” or you permit the cabinet to prescribe additional matters to be of provincial interest, are out of order, because basically what you're doing is saying then you're giving the cabinet the full right to legislate. First of all, 3(1) is giving the cabinet the right to make regulations, and it's always the intent of the Legislature to define that in some way.

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The other two sections which I'm asking the Chair to rule on, not today because I think it requires some reflection but before we have the hearing, actually says that not only can the cabinet prescribe, make regulation within the ambit of the definition, but you can change the definition if you have to, without going back to the Legislature.

I think that possibly that is out of order, and I don't think it's possible to do in legislation, and I would ask before you consider clause-by-clause that you consider whether or not it is in order or it isn't in order.

I'd like you to confer with the Clerk of the House and the Speaker before you make your ruling, as well.

The Chair: We will do that, Mr Sterling. Thank you. Mr Hayes, one point of clarification.

Mr Hayes: Yes, Mr Chair. Just about everywhere we go, I have to explain some things to some members here.

When we talk about the policies—and it is correct that cabinet does set the policies. However, we fail to let people know that there is an implementation advisory task force which is headed up by Dale Martin and all the regions have representation on it. AMO has representation. Ontario Housing has representation on this committee, and we also have people on a technical committee and we have people on the rural committee who are dealing with the implementation of the guidelines.

So there is a lot of input, and we are still getting input from people and we're still consulting with people to make sure that when the policies—the policies are there now, excuse me, but the regulations and the guidelines, that there will be certainly flexibility in there that will pertain to individual municipalities. So there is flexibility there, and there are people who represent pretty well all sectors that get involved in planning in our municipalities, so there's plenty of input there.

I'm also very pleased to hear, and I've heard it several times, that some of the opposition members, particularly the Liberal members here, seem to indicate that we should go a lot further with the Sewell report, and I appreciate that support.

Mr Eddy: Mr Parliamentary Assistant, if they find there are problems with the legislation, could the task force come back then with the suggestion of a change of the act, possibly, or a regulation? Is that a possibility? Because when you're doing implementation—

The Chair: Mr Eddy, I'm sorry. No, we don't have time to do that.

Mr Eddy: We don't have time to answer a question.

The Chair: If you want to respond to that quickly, do so, Mr Hayes.

Mr Hayes: I think we have been very open in this government in this total process, and we will continue to be that way, and we will accept amendments and of course the government itself will be bringing in amendments, so it's a very open process and everyone will have his say and have his vote.

The Chair: Thank you, Mr Hayes. I want to thank the city of Gloucester for presenting its submission to this committee.

WETLANDS PRESERVATION GROUP OF WEST CARLETON

The Chair: We invite the Wetlands Preservation Group of West Carleton. Welcome.

Mr Phil Reilly: Good morning. My name is Phil Reilly. I am the chairman of the Wetlands Preservation Group. My associate is Dr Meg Sears. She will be actually making our presentation, but my role this morning is just to explain the position of the Wetlands Preservation Group and another organization called Ecovision in this community.

Ecovision is a coordinating environmental group of which the Wetlands Preservation Group is a member, and in that context, Ecovision supports the Ontario Environment Network and belongs to the land use caucus of which I am a steering committee member. The presentation that we're making from the Ottawa-Carleton area is somewhat of a coordinated presentation and one that we took on as our obligation within the environmental community here.

We have been very much involved in the Sewell process through the land use caucus. I and Dr Sears have attended many meetings in Toronto on this process. That will be reflected in our presentation. From here it's Dr Sears and our formal presentation.

Dr Meg Sears: We really have to applaud the government for the process which it embarked upon with John Sewell and his commission. We believe that they brought forward a very good set of recommendations which would result in a much better planning process for Ontario. We have to really applaud you for taking on such a humongous task. It's a very difficult, very complex process.

We have examined Bill 163 and we have brought forward some recommendations to improve it so that Ontario will have a better planning process. It contains some good aspects of the commission's recommendations. In some cases Bill 163, as the previous submitter said, does not go far enough. In a couple of cases, actually, Bill 163 seems to go in the opposite direction. We were rather disappointed in those instances.

I'll quickly go through the submission and then we'll hopefully have some time for comments.

We'll start at the beginning, the purposes of the Planning Act. The very first purpose that is proposed in Bill 163 we believe puts forward a mixed message to promote sustainable economic development. In fact, there are two messages that have to get put across. One is that the planning process should result in a society which works, which involves economic, social, the whole range of that sort of value. The other is that the land use planning process must preserve the agricultural land and the natural features which make the province tick ecologically, which is beyond just the human concerns.

With that in mind, we believe that Bill 163 would be improved by deleting the first proposed purpose and by putting in what was essentially the Sewell commission's first two purposes, slightly rephrased so they would fit into the phrasing of the bill.

The Sewell commission proposed a very different sort of model for planning in Ontario, one that would result in decision-making being made at the local level. However, this would have to be tempered and channelled with the direction of the provincial policies. We understand these policies have been finalized; they've been approved. We sincerely hope that the government goes ahead with the policies.

They have undergone extensive consultation both through the Sewell commission, and last fall and winter the government consulted on those. Consultation we believe is closed on this so we have not commented on them, except to go so far as to say that we realize that there are many people who are very concerned about those policies. At the heart of those concerns is the notion that there must be some kind of limit to development.

Appended to the submission we've included two papers to assist the committee on these matters. Obviously we can't pave everything from here to Hudson's Bay. These policies do set out a good framework to limit growth. But the two arguments that are often made are, first of all, that it is a land owner's right to be able to develop. But while as a land owner you would like to think that you could do whatever you like with your land, society can't have that.

In fact we've enclosed a legal interpretation of Canadian and Ontario law, which has been accepted by the task force working on the Oak Ridges moraine, which indicates that a land owner's rights are not entrenched in the Canadian Constitution. There is very good case law from the Supreme Court saying that it is well within the right—and I would say it's the duty—of government to limit, to the extent where you say no development, the use of land, as long as it's done in good faith and for a good public purpose.

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The second argument that's often made is that if you limit the quantity of land which is available for housing, for instance, then you're going to artificially inflate the price of land and the price of housing is going to go through the roof and people won't have any place to live.

Canada's an awfully big place and it's very sparsely populated. Other jurisdictions have come to grips with this problem years ago. In England they've done this. Also, the second paper contains a description of what has happened in Portland, Oregon, where they drew the line and said: "No development outside this line. We're not going to bulldoze the orchards and the fields." In fact, although it has changed the sort of development, it has neither resulted in huge mega-high-rise developments, nor has it resulted in an increase in the price of housing. In fact, according to the submission, housing in Portland, Oregon, is two to three times more affordable than comparable west coast metropolises.

This is a case where leadership is needed. There will be some short-term pain on the part of some land owners, but this is definitely a case for leadership. We hope the government will go ahead and do what is intuitively obvious that has to be done, for the sake of future generations of Ontarians.

Moving right along, subsection 3(5) of the Planning Act says that we have to pay attention to these policy statements. The Sewell commission resulted in a very broad consensus, saying that there should be consistency in the decisions with the policy statements. We support that and we're glad to see it's in Bill 163. On the other hand, it seems rather absurd that in that same section the crown is no longer entirely bound by the provincial policy statements. We have no idea why this is, but we sincerely hope Bill 163 will be amended so that all provincial ministries and agencies will have to be consistent with the provincial policies, otherwise it's just not workable.

The next section of our submission deals with official plans. Official plans are the documents which provide the vision, the direction for development. These are supposed to take the provincial policies and put them into the context of the local area. In Bill 163, the content requirements for these official plans have been removed. We're concerned that this is not an appropriate thing to do. Content requirements for a major document like this have been previously thought to be important in an act, indeed both in the Planning Act and in the Environmental Assessment Act. Up until now we've had content requirements for the appropriate documents, be they official plans or for environmental assessments.

We would like to see that the content requirements, at least an outline of the types of things that are required in official plans, be put into the Planning Act and, along the same line, what should be in official plans.

We're realizing now that although Ontario is an awfully big place, we really do have to do some good planning. Some of the essential components of planning are looking at alternatives: Do we really need to do something or other? This kind of consideration is what comes into comprehensive planning.

It's the only way to avoid really costly mistakes down the road. Having to put infrastructure into areas which were on private services is incredibly expensive. We can't afford to do it. We have to plan ahead. We have to have comprehensive planning, not only for infrastructure—it's been proposed that optional comprehensive

planning be carried out for infrastructure. However, we believe that comprehensive planning must be carried out for water, for landscapes and ecosystems so that, although we spend a little bit more time and energy and money planning, we don't have incredibly horrendously crippling, expensive mistakes to fix up down the road. That should be in official plans.

Within this submission, I also point out other sorts of information that you need in support of comprehensive planning. If you want to do comprehensive planning, you have to know what's there, so the province should put forward guidelines as to data collection and information databases so we can have regular snapshots of Ontario, see what's working, what's not working, where we should develop and how we should develop in the future. I've outlined that.

The next section in our presentation has to do with intervenor funding. You might say: "Why? This isn't in Bill 163." Yes, but the Sewell commission did have quite extensive support for intervenor funding before the Ontario Municipal Board and this is where I say Bill 163 goes in the opposite direction. Not only is intervenor funding before the OMB not there, it's proposed that anybody who wants to go before the OMB be charged a fee before they even put the letter in the mail. This, we believe, is totally contrary to the consensus that was achieved by Sewell and it also represents a substantial barrier to citizens' participation in the planning process. We strongly believe that fees should not be part of the—to make an appeal, to make an objection to a bad decision should not be part of the planning process.

I go on in my submission to make the argument for intervenor funding. Intervenor funding has been broadly supported and although some people say, "We can't afford it because it will result in so many more appeals and it's going to lengthen appeals," in fact, even the government interministerial committee making submissions to the Sewell commission disputed that by saying that if opponents were funded so they could do proper studies, and as long as the proponents knew that their studies were going to be intelligently looked at, then you would have better investigation of environmental effects up front and you would have shorter hearings because people would have the competence and the confidence to properly scope matters, so you wouldn't have long hearings.

Intervenor funding is fundamental to access to the planning process and if the planning process is going to be fair, as claimed in the purpose section of the Planning Act, then citizens do have to have access to it. We're not proposing intervenor funding be present for every little hearing. However, for large hearings where there are substantial environmental effects, I know personally from going through one that this is an incredible disruption of one's time, one's family life. It's a very big expense anyway, and to at least have some money to hire independent representation, technical representation, before the Ontario Municipal Board is really imperative. I've also presented guidelines for intervenor funding.

Another aspect of Bill 163 has to do with the denial of OMB hearings. This is also something that's quite close

to my heart because twice in the last few years in Ottawa-Carleton there have been provincially significant wetlands. One had a plan of subdivision on it, one had an official plan amendment, and when citizens objected to the plan of subdivision and the official plan amendment for two different developments in different parts of Ottawa-Carleton, both times for these class 1 wetlands the regional municipality, the government, said, "No, these are frivolous and vexatious and we're not going to forward your appeal to the Ontario Municipal Board."

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We consider that a really gross misuse of this power, and when the provincial facilitator's office was examining this, Barry Edgington from the regional municipality, who must have been fully cognizant of these two cases of abuse of this power, was sitting on that task force and this is not mentioned in their report. They found six cases in all of Ontario's history to support their arguments for increasing the range of powers, this net, whereby you could refuse to hear a citizen's objection before the OMB. In my very limited experience, with no real searches or anything, I found two cases where this power was abused. We feel very strongly that this range of powers should not be extended.

I argue that, and actually within my submission I list all of the conditions under which a hearing might be denied, either by refusing to refer an objection or by the OMB refusing to hear an appeal. As it's argued in the paper, it is appropriate that a hearing not be initiated if reasons were not given in writing for the hearing, and it is appropriate in the case where development approval has been denied that the Ontario Municipal Board not hear it if this proposal was premature.

We believe the decision as to whether reasons are adequate and decisions as to whether a proposal was premature should always be made by the Ontario Municipal Board. It has to be made impartially. It can't be made by the same people who just passed the resolution. That's the denial of hearing section.

Finally, within Bill 163 there are lots of things to streamline the process and this is really good, because you've got to know that, okay, we've got six months to do this, two months to do that, or whatever. Every day you hear horror stories: "Well, I put my application in and it sat on so-and-so's desk for eight months. After he blew the dust off he passed it to his neighbour and it sat there for two months." It can be kind of ludicrous. It's really good that there be a time line put on things.

The concern we have is that in Canada, in Ontario, we've got a winter that's long and hard and cold, and if you have a really short turnaround time for some development applications, then there is no time to ground-proof environmental reports. If I put in an application at the beginning of November after the frost has gone in the ground, and we have a bad winter up here, then I'm going to be before the board before the MNR or whoever, whatever environmental consultant was supposed to look at it, could possibly go out and verify whether there was fish habitat there, for instance.

This is just one place where, as you go through clause-by-clause, I really hope you keep in mind that you've got

to be able to check what's on the ground before you give approval to developments.

The second type of streamlining time line within Bill 163 has to do with the periods for OMB referral requests and appeals, and we think the periods for submission of all appeals and referral requests should be 30 days, partly because it just makes it consistent and partly because less than three weeks for a decision on the part of private citizens who perhaps haven't ever been involved in the planning process before is really not a very long time. For the sake of consistency, for the sake of the citizens, I think that would be an improvement to Bill 163.

The final time line is the time line for forwarding of a file to the OMB. Fifteen days has been put out in Bill 163 for all types of files other than zoning bylaw amendments. For zoning bylaw amendments, this file is supposed to be sent immediately. The wetlands preservation group has had the experience where we've had objections to the OMB and the file has not been sent for eight months. We think, rather than something which is maybe not well defined, a definite time period of 15 days would be an improvement.

Bill 163 introduces something called a development permit system. This is something which is really new in Ontario. We haven't had this before. This is the one case where we think that perhaps we're running before we can walk here. There is an awful lot that is left to regulation within this development permit system. Actually, if I hadn't read the Sewell report, just reading Bill 163, I would never have figured out how this development permit system is even supposed to work. We believe that perhaps a development permit system should be reconsidered, simply because it's premature.

Finally, one point has to do with minor variances. It's proposed in Bill 163 that minor variances not be heard by the Ontario Municipal Board. We believe they should be, simply because minor variances are not defined. Who knows what's minor? We anticipate that perhaps some municipalities would abuse this process and actually deny legitimate right of appeal to citizens, because they would push the limit of "minor." In fact, I understand that although a significant time is spent by the Ontario Municipal Board hearing minor variances, it's not a large preponderance of its time at all, so it's not that big a deal for it to hear the minor variances. It's better not to introduce this huge loophole that would perhaps cause grief down the road.

Finally, just in support of what I believe was spoken about earlier this morning to do with provincial interests and the declaration of them by cabinet, the declaration of provincial interests in matters that are before the Ontario Municipal Board has only been used a couple of times. It's a very extraordinary power, which to date has been used with very great discretion. Because we are in such rapidly changing times, I think some kind of very extraordinary appeal power to the cabinet is appropriate.

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The Chair: Thank you. We have no time for questions, but I would allow members to make some statements either in agreement or disagreement very briefly.

Mr Eddy: Thank you for your presentation, bringing your concerns before us. I'd really like to ask you a question about the OMB, considering that the OMB does make decisions that are in direct opposition to an approved official plan of the upper tier, the lower tier, zoning bylaws, and everything else, and whether there is a better system, or whether the OMB should have guidelines to operate under. Thank you. I'll talk to you about it later.

Mr Sterling: Thank you very much for taking the time to come in front of us, Mr Reilly and Dr Sears, I've had the opportunity to talk to both of you in my constituency office. I think what's important perhaps for the committee to understand is that these two people and the group they represent don't represent people who are involved in this because of what's happening in their backyard. They're not part of the NIMBY syndrome and therefore I think their credibility rises as a result of that.

The problem, as I explained in my constituency office, that I have with your positions is that I don't think the present laws in the province and in Canada can withstand what is going to happen in the future. In other words, I think there has to be a better balance, a right for the property owner to be heard, for the property owner to challenge. I really think it behooves groups such as yours to develop a fair system where that can in fact occur because somewhere along the line a government is going to turn the corner on this and perhaps go too far the other way. I think it does groups like yours to try to reach a reasonable balance.

Mr Reilly: I know we disagree on that point. That is the reason we had the Canadian Environmental Law Association develop, on behalf of the Ontario Environment Network, a position on what is the legal ramifications of land owner rights in respect to the planning process. I believe that paper does a very fair job of demonstrating the consensus that's reached by development lawyers, corporate lawyers, government lawyers and public interest group lawyers. I really do commend this paper to you. We have been trying to get the other side to see our point of view as well and we haven't won that debate yet either.

Ms Gigantes: I'd like to thank the delegation for its presentation and ask whether staff might make available to us information about the number of minor variance appeals that have been made before the OMB in the last 5 to 10 years, and also the report which is referred to, the final report of the working group reviewing the use of the "frivolous or vexatious" provisions of the Planning Act.

Ms Diana Dewar: Yes, we can provide that information for you.

ASSOCIATION OF RURAL PROPERTY OWNERS
(EASTERN ONTARIO)

The Chair: We invite the Association of Rural Property Owners (Eastern Ontario), Mr Harold Harnarine and Mr Bruce Benson.

Mr Harold Harnarine: Thank you for permitting us the opportunity to make this presentation. This presentation is made for and on behalf of the Association of Rural Property Owners (Eastern Ontario), ARPO for short. My name is Harold Harnarine and I am a founding

member and the present chair of the executive committee of ARPO.

ARPO is an umbrella organization covering five chapters stretched across and including membership in the municipalities of West Carleton, Kanata, Goulbourn, Rideau, Osgoode and the combined counties of Stormont, Dundas and Glengarry. ARPO's membership is now approaching 1,000 and is growing constantly.

ARPO was spawned by the ineptitude, the shortsightedness and the injustices resulting from the wetlands policy statement of June 27, 1992. At present, it is allied with other organizations across the province and preoccupied with the larger questions of the politics of land use in Ontario.

I am by profession a practising economist with a strong interest in prices and money and other related macroeconomic topics. The economics and politics of land have become part of my interests, mostly from my being a part-time farmer and an environmentalist. My comments will be confined to some of the more fundamental issues underlying Bill 163. I do not propose to become entangled in the mechanical net of this complex and enormously confusing collection of rules designed expressly for speeding up land use decisions in the province.

Most economists have gone beyond the stage of arguing the relative merits of the centrally planned economy against that of the decentralized market-driven economy. The decentralized economy is nearly always given the edge, partly because it is an efficient system by which most of the economic problems of scarcity and surpluses are solved with a minimum of bureaucratic intervention. This is not to say that the market-driven economy is free of problems; more so in producing a number of rather unwholesome effects such as damage to the environment, the growth of monopolies and extremes in the distribution of wealth and incomes.

On the other hand, no one should assume that the centrally planned system, in part or in whole, will necessarily do a good job in correcting some or all of these social and economic problems. A centrally directed land planning process is likely to fail disastrously in achieving its explicit targets or goals unless we are willing to learn from our mistakes and make the required changes as we go along.

My selected comments will not be directed to the whys of the land planning process. This is not a debate in philosophy. We agree fundamentally that land planning is essential in this province. What we are disagreeing with in a very fundamental sense is the method by which Bill 163 is attempting to do this. So our questions have to do with the process, more directed to the hows as described in Bill 163. The crucial questions therefore relate to how such land use policies come into being, how they are structured, how they are implemented and some of the consequences emerging from such procedures.

I will summarize the main issues that are of concern to our organization.

Firstly, the bill describes a model of land use policy that is highly centralized and that concentrates an enor-

mous amount of power in the hands of the minister. The express intention of the bill to foster community participation in planning is therefore reduced to a farce and is a camouflage for this excessive centralization and concentration of power.

Secondly, as a corollary to the first point, land use policy is determined and built around provincial policy statements. These statements are the rigid core and unifying force around which everything spins. Again, the public's input in the framing of these statements is limited and by invitation only.

Thirdly, the role of the OMB, seen previously as an autonomous body with considerable powers to redress the misuse of powers relating to land use at the level of the provinces and the municipalities, is severely compromised in this bill. The integrity of the OMB as an impartial institution is therefore called into question.

Fourthly, the planning process is great on the politics of land but fails dreadfully in acknowledging the crucial economic issues falling out of its actions. It is an easy matter to freeze land into some rigidly defined state by the zoning or designation process. But what of the impact of such actions on the livelihood of the people who are compelled to shoulder the full costs of such actions so that the rest of society may enjoy certain benefits?

Fifthly, the planning process as described in Bill 163 appears to take on a very rigid and inflexible stance. The failure to appreciate that the economy is constantly adjusting to a large number of forces which will inevitably involve the use of land directly or indirectly will make official plans the millstones around the Ontario economy. Something should be written into law regarding the early recognition for change so as to make official plans more the servant of the people rather than their masters.

From here on I wish to elaborate on these issues.

Firstly, the highly centralized system: We are concerned about the fact that Bill 163 describes the land policy process that is centrally determined, centrally structured, centrally directed and centrally driven. This excessive emphasis of planning from the centre results in an enormous concentration of power in the hands of the minister. The powers exercised at the municipal level are logically delegated by the minister who, for reasons not specified in the bill, may withdraw such powers or simply dissolve the organization. Example: a municipal planning authority to which such powers are delegated.

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The two features of excessive centralization and the inordinate concentration of powers in the hands of the minister give rise to some unwholesome aspects of this new approach to planning:

In the first place, the process will inevitably call for the setting up of a large and expensive bureaucracy which, instead of speeding up the process, will tend to hold up actions by concentrating on trivial procedural details.

In the second place, land use rules will likely become complex, rigid and inflexible, adding to the delay and costs of doing business.

Thirdly, the initiatives in the purchase and the develop-

ment of land will be discouraged, leading to scarcities of such goods as houses.

In the fourth place, the whole approach is based on the assumption that the minister and his officials know what is best for all regions and corners of this province.

Fifthly, there's a good chance that the whole province will become clones of Toronto since the bill does not seem to make allowances for differences at the local level.

Sixthly, this top-down process of determining how land is to be used reduces the municipalities to the level of rubber stamps. The autonomy of the municipalities in land use matters is completely taken away.

The powers of the minister may be used in an unconstrained and arbitrary fashion—example: dissolving a municipal planning authority—causing considerable instability and uncertainty for the peoples and municipalities in question.

The architects of Bill 163 may rightfully consider themselves as faithful disciples of the more than one million planning bureaucrats who dictated terms and conditions for the operation of the Soviet economy. These architects will succeed in dragging down the Ontario economy in much the same way that the Soviet planners destroyed theirs. That is not a caricature.

Policy statements: Policy statements are the unifying force of this new approach to land use. Our experience with the wetlands policy statement of June 27, 1992, has taught us to be very concerned about this instrument. Any matter of provincial interest is potentially able to become the subject of a policy statement. These matters of provincial interest are listed on page 4. The list is so long and comprehensive that you wonder whether the architects intended to cover the whole universe of political concerns.

This totality results in three outcomes:

(1) It is bound to produce conflicts especially between the more explicit economic goals and those of a more qualitative nature, especially those relating to the protection of the environment.

(2) It is unreasonable to expect anyone to incorporate all these concerns in determining land uses.

(3) It opens up the road for a totalitarian control of land use across the province.

Policy statements are a prerogative of the minister, who consults with those deemed to have an interest in the subject. In shaping the wetlands policy, the minister conferred with such groups as Ducks Unlimited and Wildlife Habitat Canada. Neither he nor his staff thought it fit to consult with land owners, the very people who are asked to shoulder the costs so that society may reap the benefits of wetlands.

Is there anything here that says the public will be consulted? The minister is free to pick and choose those with whom he may consult. Surely that could not be interpreted as consulting the public at large.

If policy statements are the foundations upon which land use policies are built, then I invite the public to look closely at how these come into being, how they acquire

the status of law and how they figuratively choke out the initiative on land use matters from the affected communities.

Policy statements are the headlock by which municipalities are virtually forced to surrender whatever little vestiges of autonomy or initiatives are found at the local level.

The role of the OMB: It is evident that with the guiding hand of the all-encompassing policy statements dictating the terms and conditions relating to local land use, the OMB will be hard put to rule in favour of some aggrieved party. Even when the appeal is allowed, the OMB now has the mandate to dismiss all or part of the grounds for complaint without a hearing. The conditions appear to be stringent and unreasonable. Appeals may be denied a hearing if they are not made in good faith, frivolous, vexatious, made for the purpose of delay or if premature. If the merits of an appeal could be reduced to these levels, then we really have a much more serious problem than we imagined with the OMB. Are these rules necessary for efficiency or are they means of prejudging and thwarting the course of possible relief, if not of justice?

Tell me, what is this condition which says that an appeal may be dismissed without hearing if the person making the appeal did not previously make an oral or written submission before the plan was adopted? I ask you, in all reason, how many of us have the foresight, the stamina, the interest or the ability to read and comprehend all the intricate aspects of an official plan such that we could feel confident in making a submission?

This condition is totally inconsistent with all notions of common sense. It is a bureaucratic trap and a wicked triviality which does a lot to damage the integrity of the OMB.

There are other activities of the OMB in Bill 163 that we consider outrageous and out of place. The OMB, that has lost its autonomy under the strong hand of a central planning bureaucracy, cannot and should not be allowed to have the final say in a dispute over land values between a land owner and a municipality. An independent third party is essential to even out the playing field in this important matter.

The economics of land: This highly centralized system of land use planning has assumed that the economic effects of its planning decisions are neutral. One gets the impression that planners behave as autocrats, arbitrarily taking from some and giving to others. They lay down rules of land use by zapping, freezing, zoning, designating, changing and redrawing maps. What they fail to appreciate is that in so doing, they are engaged in a massive process of redistributing incomes and wealth among property owners. Some are made extremely poor while some are made extremely rich, thanks to the arbitrary actions of planners.

Land is a valuable resource in fixed supply. They are not making more of it. Land also has a vast number of alternative uses. The value of land depends on the price of the products available from it. The more you restrict the alternative uses, the lower the value of land. Hence, government restrictions on what land owners are per-

mitted to do with lands are a major cause of the fall in the market values of land.

In the interest of brevity, I'm going to skip a few pieces.

Let me put this question to those people who live mostly in cities and who are inclined to think that land ownership rights are relative to the ideology of the party in power. Just suppose that the government were to seize your property, your beautiful home with its manicured lawns and gorgeous flower beds. You may live on your property and you may continue to consider yourself the owner of the property, but as of today the property is zapped. You are allowed to do absolutely nothing to the property. You can neither cut the grass, remove the snow, trim the hedge, grow flowers or paint or repair the house. These conditions are unbearable for you so you put up the "For Sale" sign immediately.

But exactly what are you selling? A buyer who hears of these restrictions will stay away completely from your property. If the buyer is a freak, he will offer you little or nothing. You have lost your equity, possibly your life savings, as a result of the government restrictions placed on your property. Do you consider that fair play? In fact, that is exactly what has happened to owners of wetlands, ravines, valleys, areas of natural and scientific interest, significant corridors etc.

This matter, ladies and gentlemen, will not go away. We would like to see this new approach adopt a realistic stance on disguised expropriation. Why not go in the direction of planning by incentives and inducement? This method of planning by directions and decree is inconsistent with our traditions of a market-driven economy. This method is bound to fail in the end simply because it ignores the hard facts of the economics of land.

1050

The rigidity of the land use planning process: Nowhere in this new approach have I seen any reference or recognition of the need to change plans as conditions in the economy change. Incidentally, as a footnote, the Sewell commission did recommend that provincial policy statements be reviewed every five years.

In the private economy, market forces determine the allocation of land among its several competing uses. Planners are engaged in this same process of allocating land except that they use a different set of criteria. Planners are not gods who can foresee clearly the future needs of lands to serve the community. Depending on how the economy shifts in the future, especially in the direction of becoming more competitive in the global market, land planners will have to respond quickly or see the Ontario economy perish by their tardiness. By all means, we will have admirable land use plans, but in the meantime we will be contributing to unemployment and possibly bringing down our standard of living, all because we are unable to compete internationally.

Land inflation will be a fact of life resulting from this cumbersome structure of land use decisions. The private land market is confused and mesmerized by all the uncertainties generated by this new approach. Buying land is risky business in this environment, thus prices will

be inflated by a premium to cover for this high risk. As land inflation feeds into the economy, the price of most goods and services which depend on land as an input—namely, houses, agricultural goods, recreational services and industrial and commercial structures—will rise without fail. Can Ontario afford this luxury?

In what follows, I offer six selected recommendations.

Firstly, give the people at the local level greater opportunities to determine their land use preferences. Decentralize the process as much as possible, retaining control of those matters that are truly fundamental and critical to Ontario as a whole.

Secondly, give the people a chance to shape provincial policy statements and to change them, adjust them or abolish them completely when they become obstacles to making rational changes in land use policy.

Thirdly, restore the OMB to its former autonomous position and let it truly play the role of a referee or arbiter in land use matters.

Fourthly, establish a commission of independent and competent persons to arbitrate in disputes relating to financial settlements in cases of land expropriation.

Fifthly, if the market value of land has fallen, say, by something like one third as a result of a planning decision, then such lands should be deemed as effectively expropriated and land owners should be compensated according to market values. If not, other financial incentives may be offered to encourage the land owner to hold land in accordance with the wishes of the planning authority.

Finally, all official plans should be required by law to become flexible and responsible to the fundamental changes in the economy. Land is a valuable resource, and our livelihoods depend on it in a direct or indirect way. When our livelihoods are threatened, the official plan must be made to yield.

The Chair: Mr Benson, you have a statement as well?

Mr Bruce Benson: Sir, I would like to bow to my colleague. You heard sufficient from him. I do not have very much to add to it, and I would not like to dilute his comments by further words.

Mr Villeneuve: Mr Harnarine and Mr Benson, thank you very much for your presentation. I also appreciated your coming to Chesterville when we had the rural economic development task force, and your presentation was certainly duly noted.

Farm land, as you know, is not subject to the wetland policies. We think that in some instances we may see people go and cut trees and indeed tile land, because some of our best farm land in eastern Ontario, and indeed anywhere in Ontario, is tiled land, which if indeed were growing trees without the tile would be wetlands. So what we see is a very strange phenomenon where we may be discouraging people from reforesting their land because it could limit the use.

We had in Napanee recently a Christmas tree farmer who told us that now that his land—and it's marginal land—is growing Christmas trees, he is very, very concerned as to the designation of his land as something

other than regular rural land. Indeed, with the wetlands policy that we now have, the property rights of individuals are being eroded more.

A dangerous statement was made by the previous people that intervenor funding is very much their way of attacking this particular area to preserve wetlands. We all want to preserve wetlands within reason. The situation is that highest and best use of land is how one appraises it as to its real value.

Again, a presenter in Peterborough last week told us that his land has gone down 40%, based on appraisals by qualified appraisers, and continues to decline, with no real attraction for any potential purchaser. I think you've touched on that very well.

The Chair: Mr Villeneuve, I apologize, but there were only five minutes for all three caucuses. There was only a minute and a half per caucus.

Mr Villeneuve: I think the questions have been answered. The concerns are real, and they're shared certainly by yours truly.

Mr Anthony Perruzza (Downsview): I rather enjoyed many of the comments that were made by the deputant. Obviously, it was a very well-thought-out presentation and a well-thought-out response to many of the issues as outlined in both the act and in many of the policy statements.

Although in one instance you say that the policy statements are very comprehensive and very detailed, many of the other people who have appeared before the committee and basically many of the other associations—the home builders' associations primarily and some of the chambers of commerce—have spoken to that. Basically, their criticisms have been that the statements were vague and not comprehensive enough; that they weren't clear and as well defined as they would like to have seen them defined. So there's that contradiction there in terms of the information that has been provided to the committee.

I just wanted you to elaborate on that particular point briefly so that I can understand a little more clearly what you mean by their being as comprehensive as you think they are and as limiting, because I don't see them as limiting. In fact, I see them as opening doors for many people in the development industry, opening doors for many of the community groups involved in land use planning.

1100

Quite frankly, I've been saying this and I continue to say it: that when this actually goes into effect and municipalities actually come to understand how the new process is going to work and adjust that new process to their own local immediate circumstance, they will discover that, quite frankly, they won't want a government in the future to change the way land use planning is being changed. If you could respond to that briefly, please.

Mr Harnarine: The answer is in your last point, that it's not a question of the wording—the wording is reasonably ambiguous in some instances—it's in the application of the wetland policy statements that we have had some very serious and disappointing experiences. It is the

centre that determines, in the wetland case, precisely what lands constitute wetlands. The local municipalities have no input into that whatsoever. It's the Ministry of Natural Resources and its mapping experts who determine what wetlands are.

Mr Villeneuve: You're using the word "expert" pretty loosely.

Mr Harnarine: Thank you. So, I may not have any dispute with the wordings. The wordings could be vague, could be ambiguous, could be foggy, could be—what? I have very serious reservations with the way the rules in the wetland policies are implemented.

Mr Perruzza: If we can have a brief description from staff—

The Chair: No, there's no time. No, I'm sorry. We'll have to do that with subsequent deputants. Mr Eddy.

Mr Eddy: Thank you for your presentation. You've certainly given us a lot to think about. I recognize your problem with the centralization of planning in Ontario, and it certainly is not local planning. Planning is supposed to be local planning to determine the future and the use of land. So, you've made some excellent points. It's time we recognize that municipalities should be making more of the decision. Although this goes part of the way, it certainly imposes a centralized set of provincial policies, an unlimited set of policies, because we've seen some, but what are those in the future?

I think it comes down to, at what level do we make the determination of wetlands? We've had some examples here of what's wrong with the system. So you're saying it should be local, it must be local, because they are the people who know what these are.

The other thing I note is that you're saying we must develop a system of recognizing what value we're taking away from people when we go in and in some cases in a wholesale manner determine wetlands that may not be wetlands at all. I recognize what you're saying. Thank you for your input.

Mr Hayes: One of the problems that you're talking about is dealing of course with the wetlands, and of course we understand the frustrations. The frustrations that you are talking about are what you've gone through in the past. In the past, MNR would come in and it would designate wetland areas. Now what is happening is that certainly they will map it, but of course the municipalities will be the ones that will be actually designating the wetlands, and unlike in the past, there will be lots of opportunity for the public to participate in those discussions along with the local municipalities. So, this is actually changing from the frustrations you have been putting up with in the past.

The Chair: We thank you for the personal interest you both have taken in responding to this bill.

PAUL LAUGHTON

The Chair: We invite Mr Paul Laughton. Welcome to this committee, Mr Laughton. There are only 15 minutes. If you wish the members to ask you questions, you will have to leave as much time as you can.

Dr Paul Laughton: My name is Paul Laughton of 928 Muskoka Avenue, Ottawa, K2A 3H9, and I'm here

as a private citizen. I haven't seen any like that yet today. I'm a retired professor of chemistry, very ancient, and have been busy for a number of years in planning matters. I've already had a say in other organizations; this is my own private say.

First, I should say that I endorse what you're going to hear from the Federation of Citizens' Associations of Ottawa-Carleton this afternoon. At 11 o'clock last night I read another brief by a friend of mine Dr Allan Gregory, who has expressed some matters with extraordinary clarity. I wish I'd prepared them myself. So I endorse his presentation which comes late this afternoon.

The Federation of Citizens' Associations, which I may call FCA, is questioning the proliferation of fees for appeals to the OMB, and I've heard comments on that already. But I am particularly annoyed by some of the cited fees, and I've listed them here by page in the bill, and I'm afraid that the number I give is just the one that's in the aisle on that page. I think most of these are from the act rather than from the bill. These are ones which are charged against appellants who are being denied due process because another body has been dragging its feet contrary to the law, and it seems to me that people who are seeking redress of justice in a matter like that ought not to be charged a fee. In fact, I don't understand why a situation like that cannot be decided by a simple directive of the OMB on a statement of claim to them.

My next item is on the withdrawal of any review of committees of adjustment. Certainly, leaving it up to councils to be the final deciding body simplifies matters and cuts out a few OMB hearings, but it leaves us defenceless when we have a council that is not of the makeup that we would temporarily like. You may say that this is not an important matter, because committees of adjustment are temporary sorts of decisions, they affect only one property, but often they amount to de facto rezoning of a community, because, despite what they say, I have heard committees of adjustment repeatedly using previous decisions as precedents. The example I give here is where a community has two foot frontages; one for single homes, one for double homes. An appeal to the committee is made to build a double home on exactly a single home frontage. This was passed by the committee of adjustment and regarded as a minor variance.

So if you're going to take away any review of committees of adjustment beyond the council, we have to watch out for councils which would be overjoyed if they didn't have to go through a rezoning process and make it public and make it open to the OMB. Our community associations are constantly fighting little battles of this sort, and to have nothing but a council that we disagree with to go to is not a happy situation. So I hope either you will restore the OMB review, expensive though it is and though we usually fail, or at least do something about defining what is meant by "minor variance." Otherwise, a minor variance could be half the foot frontage.

The other comment directly from the bill is the section on development permits, which I must admit I didn't understand too well because I haven't had a chance to go back through the previous literature on that. But unless

there are some checks and balances in the regulations to be published governing development permits, it looks as though a municipality, through an official plan, can delegate what look to me like current zoning and site plan control processes to staff, with no guarantee of any public participation at all until they reach the OMB, if indeed they're allowed to reach the OMB, because the community can deny that.

So my question is, have I missed something in this statement of development permits? Could our only protection become an expensive and time-consuming appeal to the OMB, with no provincial standard to guide the OMB?

My final, well, semifinal comment, because I picked one up from a previous speaker, is about the source of the greatest problem for the community associations and groups that I've had to deal with over the last four years, and that is traffic experts. There is a mindset in the planning community across this continent in which commercial property rights seem to be superior to all other rights. As long as a developer has in the zoning the capacity to expand and increase traffic, he can effectively insist that the community provide the infrastructure that allows that expansion, and we've seen this repeatedly before OMB hearings.

1110

If they can expand and they want to expand, they may expand and the taxpayer has to provide the infrastructure, and the most annoying infrastructure for communities is roads. Any traffic planner who chooses communities over cars is disregarded as too radical. In a recent hearing, we had a professor of traffic planning at Carleton University appear for the region and there was no mention essentially of his contribution in the OMB decision. He was in favour of not damaging communities by funnelling traffic through them and he carefully considered what damage would be done to the communities. "Forget it. The right was there to build the road. The road will be built. We will pave it over."

Overseas, we have a different mindset. Overseas, communities are recognizing that suburban traffic funnelled into a city core can damage the communities in between. But there's no sign of that in what is happening in the planning in this province and I don't see anything to prevent it in this bill; I wish there were. I don't know how you put it in, whether it's a provincial policy or where it would fit in. That's why I haven't suggested any wording for a change. Let the legislative experts figure that out. But until there's a change in that mindset so that the only solution to traffic jams is to put more routes through more communities, I don't know what we're going to do.

A number of overseas jurisdictions have now required that bedroom communities no longer exist, that what is now a bedroom community provide its own employment opportunities so that a bedroom community no longer exists. As I say, it is an integrated community. I see signs of that in the policies advocating multi-use in new developments. But unless you require that the planning include commercial, light industrial, we'll have communities with absolutely no employment opportunities in them except

maybe a corner store, and all that traffic goes through the outer communities of the core city.

I've made some comments about the OMB. I would not like to see the OMB disappear, but certainly they have not been making us happy for the last 20 years. Some of my colleagues have suggestions about what to do about that. Is there any way that this committee can help? I know that you can't write provincial policies. Provincial policies went through the process. They're all done, finished. I don't know when the next review is possible. I hope it's tomorrow. It's about time that we begin to value neighbourhoods as much as commercial developments.

A little calculation on my own community of about 1,190 homes is that the assessed value in there is of the order of \$200 million. Now, we hear that a shopping centre is \$250 million. We never hear the assessed value of the property around the shopping centre and it's about time something appeared in the act to protect residential development, some balance, at least, between commercial property rights and residential property rights.

Am I allowed to make one little comment on the last presentation?

The Chair: Sure.

Dr Laughton: All the organizations I belong to are environmentally minded, and one thing I listened to there I thought was unfair. I heard criticisms of the province for not informing residents of proposed policy changes. My understanding was that this was the duty of the municipality, and if the local municipality hasn't done so, I can sympathize greatly with the people involved but I don't see that it's fair to blame the province. I love blaming the province for everything but I don't think it's guilty of that one. That's all I had to say this morning.

Mr Perruzza: Mr Chairman, I thoroughly enjoyed everything he had to say. I thought it was very clear, absolutely.

Ms Gigantes: I have a quick question. Could we get staff to provide us with some information which perhaps we could share with the witness about his question on 70.2.

Ms Dewar: Bill 163 permits municipalities to adopt a development permit system for a defined area in the municipality or for the whole municipality. It would be set out in an official plan and could be used as an alternative to site-specific zoning bylaws and site plans.

That process will be set out in a regulation and there will be an appeal process set out in the regulation. The regulations are being prepared now by staff in cooperation with the implementation advisory task force, the technical committee and a rural table. Those three committees are comprised of a number of stakeholders from various interest groups and agencies.

There have been a couple of municipalities that have expressed an interest in working with us as well to establish the development permit system, so the work is going on now.

Dr Laughton: So we hold our breath until we see what appears under 70.2(2)(e) then.

Mr Grandmaître: We haven't seen the regulations

yet. That's the problem. I totally agree with you that until we find the right definition to minor variances that committee of adjustment will have too much leeway, and now that we cannot appeal its decision to the OMB I think the minor variance definition will be broader. That's my concern, and I agree with you: I'm not in love with the OMB. I've been fighting with them for, well, too many years to—

Mr Eddy: Decades.

Mr Grandmaître: Decades, yes. But I agree with you that until we do find the right definition to minor variances, I think we still need the OMB, for now anyway.

Mr Villeneuve: Mr Laughton, thank you for your presentation. Just on your last comments, and I think you're talking wetlands, the way wetlands have been designated in many, many instances, if not most of them, the owner did not know his land was being looked at as a potential wetland. People who did the designation did not advise the land owner that either they entered the land or that they were contemplating a change in zoning to wetlands 1 or 2 or 3. It was advertised in the local papers. If someone missed it, and the chances are pretty good they would miss it, all of a sudden they wind up with a designation as class 1, 2 or 3 wetland without their knowledge and I don't think that's right or fair. Yes, it is the municipality's responsibility to advertise but in many instances it's left a great deal to be desired.

Dr Laughton: We're certainly in favour of written notification which, by the way, the city of Ottawa has removed for zoning under the Ottawa official plan.

Mr Hayes: With regard to traffic and infrastructure, the policy statements certainly do address that issue in policy B:

"(5) Communities will be planned to use land efficiently, promote the efficient use of infrastructure and public service facilities, and where transit systems exist or may be introduced in the future, support the use of public transit.

"(6) The efficiency of transportation systems will be maximized by integrating transportation modes, and making optimal use of existing and new transportation systems. Transportation systems "should be coordinated with those of other relevant jurisdictions."

Then you go over to policy E:

"(2) Municipalities should be planned to promote the most efficient modes of transportation and to reduce the need for the private automobile by giving priority to energy-efficient low-polluting travel, such as walking, bicycling, and public transit."

So these things are being addressed and implemented in the proper manner.

ALEX CULLEN

The Chair: We invite Councillor Alex Cullen.

Mr Alex Cullen: Thank you, Mr Chairman. Indeed, it's a delight to follow Dr Laughton. I know him as a veteran of municipal issues, quite experienced in planning and indeed he's a constituent of mine.

Mr Grandmaître: Is that a paid commercial?

Mr Cullen: That's right.

Mr Villeneuve: Is there something coming after that?

Mr Cullen: That's right. Good morning. My name is Alex Cullen. I'm a member of Ottawa city council, representing Richmond ward, and a member of regional council here in Ottawa-Carleton. It's my pleasure to welcome you to Ottawa-Carleton. I would like to thank the standing committee on administration of justice for providing me with the opportunity to speak to you on the subject of Bill 163 regarding land use planning and open local government. I intend to address both issues in my presentation.

1120

I am currently a member of both Ottawa planning committee and regional government planning committee and am vice-chair of both. I have followed with close interest the work of the Sewell commission, indeed made representations to it when the commission hearings were held here in Ottawa.

I support this proposed legislation because I believe that its reforms are timely. Land use planning has become increasingly complex and there are new societal priorities that must be explicitly taken into account when local planning decisions are made, particularly in the area of environmental protection. At the same time, it is important not to lose sight of the fact that we are dealing with the planning of local communities, that the planning legislation should serve communities so that the public that lives in these communities can govern its own development.

To this end, the trend of professionalization of planning must be checked and held subordinate to the principles of responsible democratic government. A municipality's official plan may be shaped by planning professionals, but it's living, breathing, real people who live in those communities and it is they who should construct that official plan.

Time does not permit me to go into a detailed analysis of the strong and weak points of the bill but I will touch on some important points.

Part III, Planning Act amendments, subsection 6(2), "decisions consistent with policy statements": By now you probably will have received delegations commenting on the substitution of the phrase "have regard for" in the current Planning Act for the bill's proposed "shall be consistent with" relating to planning decisions taken by municipalities with respect to provincial policy statements. I am very glad to see this proposed reform. The current wording in the act was far too permissive.

Communities that saw their official plans as bulwarks against unwanted development have seen planning decisions that merely nod at the policies they were to "have regard for" and charge off on an antithetical tangent to the intent of the relevant policy. The phrase "shall be consistent with" is seen as restricting the scope of this activity without imprisoning policy to the exact letter of the law.

Do not weaken this phrase by considering such weasel word qualifiers as "consistent with the spirit and intent" of the policy. If provincial policies are to be implemented and official plans are to direct local development, then

the effective phrase to use is "shall be consistent with."

Section 10, substituting subsection 17(22), "notice": This section deals with a process by which an approval authority, usually an upper-tier municipality, approves a lower-tier municipality's official plan.

The city of Ottawa has recently completed an exhaustive six-year saga of reviewing its official plan. This involved extensive public notice and consultation with issue identification papers, information sessions, policy discussion papers, workshops, stakeholder meetings, round after round of public hearings and, finally, an award-winning official plan approved by Ottawa city council. Then it went to the region for approval.

Then the game started all over again. Regional planning committee found itself facing 380 modification requests, 31 referral requests, 21 deferral requests, and that was only at the start. It took five full meeting days to plow through all of this, including another round of public delegations. It was clear that the general public were not being given the same opportunity to discuss the proposed modifications etc as during the city's public consultation process. However, and not surprisingly, the lawyers for the developers were in constant attendance, providing for the committee's convenience written motions to implement their proposed modifications on behalf of their clients, as they have a right to.

Instead of being an exercise of confirming conformity with the region's official plan and provincial policies, it became a *de novo* process without, in my view, comparable public participation similar to what had occurred in the original writing of the plan. That is why I strongly support what has been proposed in this section. My understanding from reading this section, and correct me if I'm wrong, is that the players who previously participated in this process would be notified again. I hope my interpretation is correct.

The alternative is to restrict the approval body's review of the official plan to minor technical amendments and to the issues of conformity with the upper-tier official plan only and let the Ontario Municipal Board deal with the rest.

There is a series of sections here starting with 17(29) "refusal to refer," and "dismissal without hearing." These subsections refer to new restrictions to the ability of an approval authority or the Ontario Municipal Board to consider a matter. One new restriction allows the approval authority or the OMB to refuse to consider a matter "if it is of the opinion that the reasons set out in the...request do not disclose any apparent land use planning ground upon which" to base a decision.

This new restriction is an example of the increasing professionalization of the planning process, which further removes the ability of ordinary citizens to exert control over the development of their community, either directly as individuals or through their elected representatives who are charged with the responsibility of local governance and planning under the act.

To restrict their ability to appeal what is happening to them in their own community to what is increasingly a professional definition of land use planning not only

erodes their rights as citizens but subverts the principle of responsible democratic government. What is needed is a system of checks and balances, not the capture of what should be a community prerogative by a professional élite speaking in tongues that most taxpayers do not understand. Therefore, this new restriction should be rejected and the original grounds for refusal of consideration of a matter by an approval body or the OMB should remain with the time-tested grounds of frivolous, vexatious or for the purpose of delay.

The other new restriction lies in the requirement that an applicant must have made previous submissions when the matter was first being considered. This is also too restrictive, as all too often people don't realize what has happened until a decision has been made. I think the politicians around this table understand that. This is simply human nature. It should be sufficient that the applicant has provided written reasons to apply to the approval body or to the OMB. This new restriction should also be dropped.

Intervenor funding: Intervenor funding for third parties to appear on matters before the OMB was the subject of a recommendation from the Sewell commission which apparently has not been accommodated in the Bill. The commission proposed, in recommendation 85 of its final report, the following, and I'm not going to read it all: "The Planning Act be amended to permit the Ontario Municipal Board to award intervenor funding on any appeal of a plan...which, in the opinion of the board, affects a significant segment of the public and concerns the public interest and not just private interests. The decision of the board should be based on the following criteria...." and you can see the list.

It must be recognized that from time to time the public interest must be represented on important land use planning issues. The proposals outlined in the Sewell commission's recommendations are reasonable and should, in my strongly held view, be incorporated into the bill.

Part IV, Municipal Act amendments: These are the sections dealing with in camera meetings. I would like to applaud the government for moving to restrict the ability for municipal councils to conduct public business in camera or behind closed doors. As a former school board trustee from 1982 to 1988, I can tell you that it's about time municipalities caught up to the school boards in this regard. School boards in Ontario have been operating under these restrictions for many years under the Education Act with no ill effect. They know how to deal with sensitive issues in progress and when to take a vote. The principle of in camera, quite simply, is to permit briefings on sensitive issues clearly affecting the public interest, such as those listed in the Education Act and replicated in this bill, and provide the opportunity for full and frank debate on those issues outside of the public purview. However, for government to be held accountable, the decision, the vote, must be held in public.

You may have heard some depositions asking, as a result of the proposed restriction to in camera meetings, for protection of municipal council members from the law of libel. I heard this at AMO, as a matter of fact. "What

for?" I say. There is no reason to justify speaking libel. The purpose of parliamentary privilege, as you all know, was to protect members of Parliament from the wrath of the crown, not to permit them to malign, slander or lie. There is no reason to expand the scope of in camera sessions beyond the bare minimum listed in the bill nor to compromise by granting parliamentary privilege to allow the ill-thought to express themselves irresponsibly.

1130

Schedule B, Local Government Disclosure of Interest Act: This last item I want to touch on is the principle of financial disclosure of assets and liabilities for locally elected representatives. I am a long-time advocate of this, as I've been disclosing to the public annually my assets and liabilities since before my election in 1991. I believe you have, attached, my statement of assets and liabilities.

In Ottawa, we are neighbours to our municipal colleagues in Quebec. We drink each other's wine and each other's beer and, being politicians, compare notes from time to time. In Quebec, financial disclosure has been law for many years and it does not seem to have harmed democracy there. People of quality still run for office, still serve the public. Disclosure makes sense. Not only would financial disclosure statements assist the public in determining whether an elected representative was in a conflict-of-interest situation, but it would also enhance the awareness of the elected official in his or her obligation to act in the public interest and not to advance his or her private interests. It's amazing that you have to continually learn these things.

Two hundred years ago, Thomas Jefferson said, "When a person assumes a public trust, he should consider himself a public property." These words grow more relevant with the increased responsibilities that elected officials carry today. Public disclosure must be seen as a reasonable requirement for public office. People choosing to serve the public must be prepared to give up a certain degree of personal privacy due to the very nature of public office, its responsibilities and the public scrutiny it brings.

However, there's one important deficiency in the proposed legislation regarding financial disclosure, and that is when disclosure should occur. If disclosure of financial assets and liabilities of elected officials is required, then it is only fair to require this of all candidates for elected office before the election, at the time of registration. In this way, not only are all treated fairly, but the public may know what possible conflicts of interest may arise when they make their choice among candidates. I can assure you that here in Ottawa it has not been a barrier to office. This indeed is the position of my regional council here in Ottawa-Carleton. I urge you, therefore, to perfect this legislation by taking this additional step.

Mr Eddy: Thank you for your presentation. You certainly covered many points that need consideration, and I appreciate having the opportunity to do that.

The question I have is about the two-tier system of planning. I found that over the years to be overcostly, inefficient and a source of conflict. You've dwelt on that in the case of the new official plan. Because the city of

Ottawa council will no longer have representation on the upper tier, do you see the possibility of more conflict between the two tiers? Secondly, do you see one-tier land use planning as superior and a real advantage? Would you comment on that?

Mr Cullen: To take the last question first, someone has to approve an official plan. Whether it's the upper-tier municipality or the ministry, someone has to do it. Someone has to see it.

To me, when our official plan went up to the region, it didn't matter that we had representation there. The conflict occurred because it became a political process, and whether it's directly elected or indirectly elected, you still have a political process, interest groups coming forward, arbitration being asked for, and that extends the whole process; you increase the de novo situation. I don't know if when you go through an approval process, you have to restrict it to simple conformity or permit everyone to participate. But whether it's directly elected or not, my own view is it took us days because we had politicians there from different municipalities anyway. Ottawa was there, the rest of us were there, and it was a big fight.

Mr Villeneuve: Thank you very much for your presentation. Your income at \$55,700—I represent 23 rural municipalities. Most of the elected officials there would be making about 10% of that figure. This legislation, I gather, will not be passed by the time the municipal elections are held in mid-November. Do we make this retroactive for those people who get themselves elected, and then this comes into being some time later? What happens? Will the parliamentary assistant come in on that at some point?

Mr Hayes: The disclosure would have to be made 60 days after the election.

Mr Cullen: Same as in Quebec.

Mr Drummond White (Durham Centre): I just want to congratulate you for your very lively presentation. Also, it clearly indicates that high-calibre candidates are not afraid to reveal their assets. I think the points you make were very astute and, as I say, quite lively done.

ELISEO TEMPRANO

The Chair: We invite Mr Eliseo Temprano.

Mr Eliseo Temprano: Thank you very much for the opportunity to speak today to the standing committee on administration of justice on the proposed Bill 163 amendments to the Planning Act for the municipal planning process. I want to clarify that I am an architect. I'm a past president of the Ontario Association of Architects. I'm quite familiar with the municipal process as a person who sits on the other side of the counter, so to speak.

I'm also presently a candidate for the upcoming Ottawa city council. I am concerned about some of the decisions that might come out as a result of this committee and how this might impact on the future political administrative environment. I have three basic comments and I'd like to go through them.

In the case of Ottawa, we're governed under a regional government structure which includes various local municipalities. I have several points of concern.

I see that there is no attempt to standardize, at a region-wide basis, fundamental planning definitions and procedures. This means the definition of fundamental building blocks in planning such as car size, loading areas, aisle widths etc will vary throughout the region. We can have 16 different definitions in this area. This also means that basic procedures related to applications, application forms and requirements will also vary throughout the region. This results in inefficiency. It is not productive because what is referred to here is not a response to particular planning differences between suburban or urban conditions, but is really fundamental units that could be defined not only at a regional but I think at a leadership, a province-wide, level.

If people are aware of the Ontario Building Code prior to the incorporation of the national building code, there were multiple building codes throughout the province that required incredible amounts of inefficiency. I think for things such as a car's size, there's no reason why that could not have some leadership shown from a higher level of government, to agree to what a common size of car is and not leave that to 16 different municipalities.

I'm also concerned about there being very many different applications. I know that when I do work for clients in multiple municipalities within the region, it seems that I have to learn 10 or 11 different languages and fill out 10 or 11 different forms. Why can't there be a standardization of this process? I think this perhaps could be done in the case of a regional planning coordination committee which would aim at uniform standards. Leadership is very important in this regard. I think it would still allow the expression of unique circumstances within each municipality.

Another area I'm concerned about as an architect is the inability of municipalities to presently incorporate aesthetic design guidelines within their zoning bylaws. My experience with zoning bylaws is that if you follow it, you probably will get it approved, but it may actually be detrimental on the physical environment and the aesthetic quality of where you're planning to do a building. If you try to do something that is appropriate and the community likes, you have a problem because it doesn't follow the bylaw.

In Ottawa we have a design committee which presently offers response to design guidelines with new proposals. This is in just a few areas. I think in Ottawa it's actually a fairly unique situation. On this design committee we have representatives not only from the professional community but from the construction community and from architects.

In the proposed changes, municipalities will be able to adopt a development permit system for defined areas or the whole municipality. Will this permit the incorporation of design guidelines with some teeth?

In this system, it is also going to be possible to delegate the issuance of development permits to staff. In the case of staff not being professionally qualified—for example, not being an architect and trained in aesthetic issues—I'm very concerned that architects maintain their involvement in these issues. We've had situations, for example, in the case of the building permit applications,

where recent graduates of a technical college are giving their interpretation to a professional of 20 years as to how the building code should be interpreted. I think it's very important that we continue to work along the lines of the city of Ottawa design committee, where we have input from the professional as well as the public community.

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My third comment is with respect to the delegation of appeals to the committee of adjustment to the city council. I realize that the OMB is overloaded and that this downloading from the province is necessary. However, it is important when this power is delegated to reduce attempts to make it political. The beauty of the committee of adjustment is that it is a non-political committee. Delegating this authority to city council will make it more political, and I understand that this will make severe time demands on the city councils.

I would request that consideration be given to the committee of adjustment's decision being final. If this is not possible, then perhaps another method can be found; for example, in the case of a committee which is not unanimous, that an appeal be permitted to the OMB and that it exercise the rights it presently has under subsection 45(12) of the Planning Act to consider it or dismiss it, and I believe that is used very few times now. In that case the OMB would not be dealing automatically with every case that is appealed to it.

Generally, I just want to make the comment that I think it's very important that if we are looking at downloading a lot of activities to the municipal level, which I applaud, the key situation is that we have very clear policy guidelines within which we must work, or what I'm concerned with is that we will politicize all the decisions at the local level and actually result in extreme inefficiencies happening. I think it's appropriate that we be very efficient and not further delay our development approval process, which in many cases, given the present economic environment, is resulting in many people not investing in the community.

Thank you for giving me the opportunity to make these comments.

Mr Perruzza: Just to describe a little bit the committee of adjustment process as I understand it and as I have experienced it, I was a municipal councillor with the city of North York, and we had a very good committee of adjustment, a committee of adjustment that had a considerable amount of experience, but rarely would a committee of adjustment stand up to the wishes of a councillor on any given issue. I mean, that was just the way it is, and the independence of the committees—and I hope that Bernard speaks to this to some degree.

When has a committee of adjustment ever turned down or run against the wishes of a mayor if the mayor was determined to stand on a particular issue? I know that quite often mayors and councillors and those people don't involve themselves in the committee process because the committee is and should be an arbiter of disputes between individuals and communities and so on. But when a councillor or a mayor or a group of councillors and mayors decided that a particular issue was important for the council or for those individuals and they communi-

cated, as councillors and mayors and groups of councillors do, to their committees, rarely would the committee stand up to those wishes and in fact turn that down. So the committee: Is it political? Absolutely, in my experience.

Mr Temprano: My own comment to that is that I don't think giving it to the city council is going to improve the situation. In fact, it will result in everything being automatically appealed. And what you're saying, if it is political now, it's not working correctly, and I think you have to fix that problem, not download it and make it political.

Mr Curling: Thank you, Mr Temprano. Your presentation brought a new direction, or something that maybe we'd have looked at but maybe they have not attempted to look at. You spoke about the building code itself and how things have changed in some time of course. That's why the provincial policy should be reviewed every five years, because things have changed. Even car sizes, as you said, have changed, so therefore lot size may have an impact on how we build garages themselves. I'm not quite sure if they ever attempt to do that. And it's varied and complex: As I would build a house in the north and as I would build a house down in Toronto varies, and people around the province have been telling us that much of this policy is based in the south and has no impact in the north. Things like intensification as well would have more impact on the north in some respect; depends on how you look at it.

Do you see that this policy itself is not sensitive enough to some of the things that would happen, as we call it, in the north, and most of the policy now is based in the south?

Mr Temprano: I think from my experience as being the first president from Ottawa for the Ontario association in 25 years, that in fact most policy is Toronto-based, and I'd rather say Toronto than say the south. I say that with considerable experience in that area.

I don't want to get into the issue of recommending provincial guidelines. When you talk about car size, I don't think car size varies between north Ontario and south Ontario. I don't want to get into issues that I think are suburban and inner urban problems which occur within a municipality.

What I'm considered about is within the region. I had the experience of building a restaurant on two sides of Beechwood Avenue in the city, and with the different requirements you end up with a streetscape that's completely different on one side and one that's completely different on the other, and you have situations that I think don't act in the interest of the community. So if it was possible to not try to create guidelines that impact on different lifestyles or different urban characteristics, but fundamental building blocks—for example, in the building code there's a common agreement across Canada as to what an exit width is. It's 22 inches; it's the width of a person. We can agree on that. People are not wider, hopefully, in other parts of the province.

Interjection.

Mr Temprano: Well, it depends. What I'm trying to

say is that basically, on a province-wide level, there are some issues that could be considered, and I would be hesitant to go very deep in that area. But at a regional government level, I think the two-tier planning approach that has been done doesn't go far enough in areas that don't relate to particular circumstance. Why does a car have to be 24 feet long in Nepean and 19 feet long in the city of Ottawa? Why is it eight feet wide in one place and 10 feet wide in another? This is within the same region. I've had situations where I have done parking lots that are in both municipalities and I have two different car sizes. Tell me if that makes any sense.

So what is lacking is a vacuum with respect to what I call objective criterion data. I don't want to get into political issues related to the differences of how one lives or one doesn't live. I realize one has to be very sensitive to that. But I do think there's a vacuum there.

Mr Villeneuve: Thank you for your presentation. Aesthetics can be a perception in someone's mind, and you touched on that a bit: What's good for one individual or group of individuals may not be for another. That's the problem I find with Bill 163. It's attempting to have one size fit all. I think there are many distinct areas in the province of Ontario that have to be recognized. The east that I live in and where I very proudly represent a riding is totally different than the Chatham area or the Sudbury area or the New Liskeard area, and I have great difficulties in having one mould fit the entire province of Ontario. Those are my comments, Mr Chair.

Mr Temprano: Could I make one small comment? I've looked very extensively at this issue. I'm very much in support, for example, of our heritage districts. But one of the problems we have under our Planning Act is that we are not allowed to define communities based on characteristics in terms of design guidelines. I live in an area called Ottawa south, which has very particular design characteristics, and any projects done in that area should try to take into account those particular designs that evolve over time. Our zoning bylaws do not do that. That's why I feel it is very important that aesthetics be a part of the development permit process and it be recognized as such. It will go a long way to resolving a lot of the problems that we have now. Those are my comments.

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REBECCA LIFF

The Chair: We invite Mrs Rebecca Liff.

Mrs Rebecca Liff: Members of the committee on Bill 163, standing committee on administration of justice, ladies and gentlemen, I would like to see some serious loopholes closed by Bill 163, and the attached 84 pages of photocopies of letters etc back up all my verbal comments.

It is not enough to make the planning process fair: Bill 163, page 3, 4(1.1)(d). What about stealing property and property rights and values from owners without adequate compensation? Just look at what is happening right here in Ottawa.

The city of Ottawa has obtained enabling legislation to fine a land owner \$10,000 if a tree is cut down without a city permit, and the city has the gall to write the

Honourable Evelyn Gigantes a letter dated May 6, 1994—copy attached as sheets 8 and 9—to request a proposed amendment to Bill 163 “so that municipalities can dedicate duly identified and duly designated environmentally sensitive areas without providing for compensation.” Why not pay owners fair market value for property the city wishes to control? Why is it such a sin to cut down a tree on private property when the city or province can plant forests of trees on public property? Why does the city and province allow the needless waste of cutting down Christmas trees that are used as potential fire hazards indoor during December and January each year, and discarded soon afterwards, mostly without recycling? I'm more concerned with the end result to the citizens rather than with the processes.

What about immediate legislation to lower the levels of pollutants in gas and diesel fuel, and better vehicle engine modifications to lower pollutants in the air and the noise levels of motor vehicles that could fall under Bill 163, page 4, clause 2(o), “the protection of public health and safety”? All motor vehicles should be checked out by the Ministry of Transportation for safer fuel emission standards and engine noise every six months, and the two-year automatic vehicle permit renewal should be repealed in Bill 163.

My MPP, Dalton McGuinty, Ottawa South, has written to the Honourable Floyd Laughren, Minister of Finance, to obtain statistics for the past 10 years showing what revenue was collected by the province of Ontario through gasoline tax and fuel tax, and how much of this tax was used to improve roads in Ontario, lower pollutants from gas emissions and modify vehicle engines. Attached is a very revealing letter dated January 27, 1994, sheets 26 and 27, concerning pollution from the articulated OCTranspo buses used in Ottawa. The enclosed letter, sheets 28 to 30, dated June 17, 1994, from the Ministry of Environment and Energy, program development branch, shows that Ontario is now taking a chicken step when a giant step is needed via Bill 163.

With regard to Bill 163, page 28, section 45, why is the elected representative for the Alta Vista ward allowed to use our own tax funds to attempt to put a heritage designation on an old farmhouse building without compensation to the owners who wish to subdivide a very large, deep lot to put up two new houses and increase the tax base for Ottawa ratepayers? Enclosed on sheets 36 to 42 is a sad tale. Is there some way Bill 163 can protect the property owner so that he or she can get the best price for their property at sale time, rather than a heritage designation without compensation?

Bill 163, page 64, subsection 58(1), does not require city councils and school boards to hold meetings inside the city or town, and this continues the secrecy in meetings out of town at fancy places at taxpayers' expense. Why not make the change in Bill 163?

Why not modify Bill 163, page 76, section 82, section 8 of the act, to not only have all meetings of the regional council held within the regional area, but also accessible to the public? Why should the Ottawa Board of Education principals be allowed to have costly meetings at resorts at taxpayers' expense, and the same goes for the

Ottawa Board of Education trustees?

How will land be acquired under Bill 163, page 78, section 3, subclause (a)(iv) of the act? No compensation to land owners is not acceptable, sheets 8 and 9. Please make the correction in Bill 163, page 78, section 3, subclauses (a)(iv) and (v), with the emphasis on diesel fuel exhaust pollution levels etc, as mentioned in paragraph 3 of this letter.

If Bill 163, page 88, schedule B, is supposed to preserve the integrity and accountability of local government decision-making, why is there no IQ test level for candidates for office? The last paragraph of sheet number 46 from Dave Cooke, Minister of Education and Training, states he does not have a structural engineer's report on file. The letter of the day, sheet 54B, published by the Ottawa Sun, outlines the five motions passed by the Ottawa Board of Education, including the destruction of a structurally sound Connaught public school and the fact that of the 18 current OBE trustees, only three—Cynthia Bled, Brian Mackey and Russ Jackson—faithfully represent all OBE ratepayers in accordance with the oath of office each trustee is required to take, while five trustees—Elda M. Allen, MaryLou Fleming, Harriet Lang, Marjorie Loughrey and Margaret Woodley—voted for the five motions shown on sheet 54, and showed very poor judgement on the other votes as well.

Note in the letter of November 20, 1992, sheets 55 to 57, that although the Education Act requires boards to employ qualified teachers, boards may appoint unqualified teachers, expecting these teachers to acquire the necessary qualifications. Please, in Bill 163, state a short time limit to qualify and that boards should not pay for that training.

The letter also states: "The qualifications of trustees are set out in the Education Act. Your suggestion that candidates be required to pass an IQ test will not be acted upon until such time as all municipal, provincial and federal politicians are subject to the same requirement." This letter is signed by the director, legislation branch, Ontario Ministry of Education.

I support an IQ test for all candidates, and I hope after reading all my documents on the antics of my city councillor and his actions during the 1991 municipal election campaign and his misleading report filed on his election campaign expenses and his refusal to give me a letter of release to Bell telephone that would confirm the fact that the cost claimed for his election campaign office is much less than the amount of real estate taxes paid by the owner of the building for the portion of time it was occupied by that candidate—who did win the election.

In his letter of July 27, 1994, the Honourable Ed Philip, Minister of Municipal Affairs, writes that "Your suggestions will be considered when legislation applicable to municipal elections is next being reviewed for amendment." So now, in Bill 163 you should make it law that OBE trustees should not censor the complaints of OBE ratepayers by banning the publication of names and misdeeds in presentations to trustees at board meetings, like the left half of the page listing the five motions on sheet 54 that was banned by the board and not published in the OBE agenda of August 29, 1994.

Also, you should include a clause preventing potential candidates for municipal office using taxpayers' funds for personal promotional campaign flyers, or promoting an assistant in a pamphlet by a councillor when the councillor is aware that his assistant will be running as a candidate in the next election. In the case I'm referring to, the councillor donated \$750 to his assistant's campaign after the assistant registered as a candidate. Earlier, in May 1991, the assistant, sheet 70, gave himself unauthorized publicity in the Alta Vista community picnic ad and then had the gall to repeat the performance in May 1994—see sheets 71 and 75. Also note the letter of intimidation sent by the lawyer of the new councillor because I requested a letter of release to Bell telephone, sheet 77, from him. I resent being told that any future correspondence with regard to trying to prove fraud should be addressed to the law firm and not to that councillor directly.

Another area you could correct in Bill 163 is the fact that potential candidates can collect cheques for their campaign before registration, because there are no requirements to report the date of donation. Only the date of the bank deposit and the date of the official receipt given to the donor is required. There should also be a reporting of the true value of a donation, not as in the Peter Hume election campaign of 1991—the value of the campaign office at only \$250 for a prime Bank Street location in the ward.

Please, please, read all my comments on the sheets enclosed. This will enable you to list the necessary changes to Bill 163 to close all the loopholes mentioned above plus others you will find once you read my complete documentation.

We need justice via changes for the better in the way in which the municipal planning process is carried out and the way councils of municipalities and members of these councils carry out their activities.

The Chair: Thank you. There's only time for one brief comment from every member.

Mr Grandmaitre: Thank you for your presentation. As you know, also in Bill 163, the Municipal Conflict of Interest Act will be amended or improved. Have you any thoughts on what's being introduced? I'm talking about the Municipal Conflict of Interest Act. What are your thoughts on the legislation? Is it adequate, or is it not?

Mrs Liff: I think it's more than adequate. I don't think it's anybody's business what property—if a qualified person with a certain IQ wants to run, I don't think it's anybody's business to know how this person has earned their money or personal things about them. I think it's just that they have to know when a conflict of interest does arise in their actual work, then that should be revealed and that person should withdraw, but I don't think you should be going through all that personal data and the data of somebody's husband and the data of somebody's 18-year-old-or-under child.

Mr Villeneuve: Thank you very much for your submission. The IQ business is very interesting. In your opinion, do you think the top end or the bottom end would get elected?

Mrs Liff: Well, so far I think below the middle level

is getting elected. If you take an average you'll find that's true. There are several very, very competent people, just like I just said, on the Ottawa Board of Education. There are 18 trustees; three have voted consistently over the past three years. I've watched them. I've attended most of the OBE meetings and they realize that the education in Ontario is in crisis. It needs a complete reform, a complete reversal. Instead of having 70% of the people who have no children in the schools pay the tax for schooling, some more of it should be directed to the parents of these children.

There should be a change where everybody's taught the same thing. You shouldn't have each school board writing its own curriculum. You shouldn't have, like I mentioned with teachers not qualified, being allowed to teach for 10 years or 20 years—and so what? They have to get qualification, but so what, if they don't get them? The act doesn't say, "You have to leave after a year if you don't fulfil—my daughter had a teacher teaching her computers who didn't know anything about computers. This is wrong. So we need a lot of changes.

I mentioned a few things that you could tie in here, but there's a basic change required, especially in education in Ontario and you need proper trustees. You need people with something up here to know what's going on and what's going on in this world before they agree to everything. Three parents come crying about something and automatically, even if it costs millions, they throw down a school—

The Chair: I'm sorry to interrupt you, but we're running out of time. Mr Hayes has one quick comment.

Mr Hayes: Thank you. Mrs Liff, on your concern about the councils holding meetings out in fancy places at taxpayers' expense, I'm sure you'll be pleased to know that this will not be allowed with this legislation. They'll have to hold their meetings and make decisions within their jurisdiction.

Mrs Liff: And what about the board of education trustees and the principals? They have allowances to spend and they go and waste our taxes in Hull and somewhere else.

Mr Hayes: That comes under the Education Act and it's not affected by this legislation.

Mrs Liff: But you're making some amendments to that act.

Mr Hayes: That's our next one.

The Chair: Mrs Liff, we thank you very much for participating in these hearings.

The committee recessed from 1203 to 1332.

OTTAWA-CARLETON HOME
BUILDERS' ASSOCIATION

The Chair: We welcome the Ottawa-Carleton Home Builders' Association, Mr Clarke and Mr Lee. Please begin.

Mr Richard Lee: My name is Richard Lee. I'm the executive director of the Ottawa-Carleton Home Builders' Association. With me today is Ron Clarke, chair of our provincial policy working group. Ron is also a senior planner with the local firm of Essiambre Phillips Desjardins.

The Ottawa-Carleton Home Builders' Association is an association in Ottawa representing about 350 companies in the region, and we're composed of home builders, land developers, trade contractors, suppliers and other associated companies all related to the residential construction industry. We are the voice of the residential and land development industry here in Ottawa-Carleton. We're also the voice of approximately 15,000 directly related employees and their \$2.5-billion payroll. I guess as much as we are the home builders' association, we could just as well be the home buyers' association because we certainly work for the best interests of the marketplace and represent the 4,000-plus new home buyers each year.

Since, I guess, 1991 or so to now, we've been very closely monitoring the reports of the Sewell Commission on Planning and Development Reform in Ontario and certainly we've reviewed their final report in great detail. During the time frame of the Sewell commission, we've taken a number of opportunities to respond and present our views to the commission as well on quite a few occasions actually.

Following that, of course, we provided our views on the new approach to land use planning and reviewed that and commented in great detail as well. Most recently, and it brings us to where we are today, we've spent a lot of time and resources towards understanding Bill 163 and of course preparing our comments for you today.

We are major stakeholders in the outcome of planning reform in Ontario and so this is a very serious matter for our association and of course for our member firms. We have provided to you today 30 copies of our written brief concerning Bill 163 and we've commented on several aspects. We haven't tried to do a point-by-point critique of the bill, but we've picked several items of most crucial importance to us and we've also provided some comments on how they may be improved from those currently identified in the bill.

To get more specific and to be a little bit more detailed on the items of concern to us, I'm going to pass the floor to Ron Clarke and he will give you the nitty-gritty.

Mr Ron Clarke: Thank you, Richard. Just some opening remarks. In our previous presentations to the government and to the Sewell commission, we specified some of our objectives for a planning system in Ontario and in order to place our comments today in context, I'd just like to take less than a minute to reiterate and build on what our vision is.

Essentially it's based on policies and processes that recognize housing as a priority in planning in Ontario; to enable the home building and the land development industry to operate in a stable and a free-market environment; to enable the industry to provide a range of housing choices to consumers in terms of affordability, price, location etc; to keep a good supply of lands; allow flexibility in local decision-making; to streamline the process and to keep a fair and efficient conflict resolution mechanism.

We believe these goals and objectives aren't unrealistic. In fact, they basically match the same objectives of the province in terms of planning. Unfortunately, we don't feel that Bill 163, and the policy statements that

were issued earlier this year, completely match those objectives.

We'll provide now some of our specific comments and our suggestions for, hopefully, what amounts to change in Bill 163. In our limited time, we'll keep our comments to what we think are the top five issues, seeing that our parent organization, the Ontario Home Builders' Association has completed a very detailed line-by-line review of the bill and that's been submitted to your committee already.

Into the meat: The first issue in our brief is the new initiative of the need for a public meeting as part of the plan of subdivision process. The new requirement is that prior to draft plan approval, a public meeting should be held and of course this is something new. The current bill doesn't require this.

The problem with this, we believe, is that it adds unnecessary time and cost to the process and it's unwarranted. It's going to burden, here in Ottawa-Carleton, the regional planning department with a brand-new responsibility, a responsibility and task they're not equipped to deal with in terms of staff, time and resources. It's going to create added costs, quite simply, to the process, in terms of the applicant, even simple things like mailing, the administration of it, the costs and all the soft costs of an applicant in preparing for and attending this meeting. In the end, we believe it's going to lead directly to higher costs in housing.

From a more philosophical point of view, as land use planners, we believe it's not needed. By the time you're into the plan of subdivision process, the zoning and the official plan designations on any piece of land are obviously nailed down. There would have been two public meetings under the Planning Act by that point and, frankly, we believe a third public meeting for the plan of subdivision aspect of it is simply overkill.

Our request today is that subsection 51(14) of the bill be deleted in its entirety.

Mr Perruzza: Where is that?

Mr Clarke: Subsection 51(14)? The page in the bill? Page 39, clause 51(14)(b).

What this is saying is that this must happen at least 30 days before the decision is made on the subdivision, that a public hearing must be made. Again to reiterate, this is a new requirement.

Ms Gigantes: Mr Chair, I think the reason Anthony asked the question is that the reference is to section 28 of the bill, which is in fact section 51 of the current act.

Mr Clarke: That's correct. Our second issue relates to new public notice requirements in the subdivision process and this is referenced—subsection 51(34) of what will be the proposed act and that, in your document, is near the top of page 44.

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Essentially, this new requirement is that when the approval authority, in this case, in Ottawa-Carleton, the regional planners, are proposing any change to a draft plan condition or what's called a red-line change, for example, changing a lot size on a plan—I'm sure you've heard this before—there is a new need to go through a

public notification process and it opens up also the right of appeal to basically any party that's been part of the process.

The problem with this new requirement is that again it's going to add an unnecessary delay to the applicants. Red-line changes are typically minor in nature. If there are major changes under today's system required, an application normally goes through the complete plan of subdivision process or recirculation. Therefore, there's nothing at stake in our opinion in terms of, say, a community group being concerned about these minor-type changes. What this says to us is that the province can't trust the approval authority to make minor decisions and use their discretion as professional planners and the prudence of regional council. It strips away their autonomy.

I guess the real kicker in this for the applicant is that red-line changes typically happen towards the end of the process. The plan's approved, draft approved, moving towards registration, a minor problem happens, a red-line change is needed—this new process is going to add about a month and a half to the process and delay it at the most critical time.

Our request is that the section in the draft bill be deleted and again that would be subsection 51(34).

The third issue is the ability of the approval authority, the region in this case, to consider the grounds of appeals on plans of subdivision. This is referenced in the bill in what would be subsections 51(28) and 51(38), still within the subdivision component of the bill.

The new law is that when an appeal is made by a third party to a plan of subdivision decision, a draft plan approval decision, it is an appeal as opposed to a referral request. It would go straight to the municipal board. There's no check at the local, regional level in terms of whether or not the appeal has planning merit. This is sort of a nuance in the bill, and again I'm sure you've heard this from other areas. The official plan process gives the regional council that check and there's obviously certain tests that it can make: Is it frivolous, purposes of delay, vexatious, premature etc?

Our request is that the same approach be utilized for plans of subdivision because we can see no grounds for this approach and it demonstrates, I guess, a lack of consistency in the bill in terms of how different planning processes are treated.

The fourth of our five issues relates to the ability of regional council to delegate approvals to regional staff, and we're talking about plan of subdivision approval and official plan amendment approval.

In Ottawa-Carleton, our experience in applications recently is that the streamlining efforts that the regional government has undertaken, along with local municipalities, has worked very well. Staff has the ability, the delegated authority from regional council, to approve—in simple terms, rubber-stamp—official plan amendments and plans of subdivision. We believe there's an opportunity in Bill 163 to reinforce that and to explicitly give that ability here in Ottawa-Carleton and across the province.

To do that would require amendments, we believe, to

subsections 17(2), as proposed, and subsection 51(5), as proposed.

Our fifth issue involves the time lines that have been set for official plan amendments, and this is dealt with in sections 22 and 17 of the proposed bill. The new requirement is that local council has basically six months to make a decision. They have 15 days to send the official plan amendment document on to the region, then the region has another five months to grant their minister's delegated approval. Caught up in that is another 30-day appeal process tacked on to the end of that. We're looking at a total of roughly 400 days in terms of the legislated requirements for timing.

Our fear is that decision-making bodies will use these dates more as a target as opposed to a deadline and we think, aside from that, that they're too long and the experience here in Ottawa-Carleton is that we've been achieving fewer amounts of time. We can see no reason why the region here in Ottawa-Carleton would have to sit on official plan amendments for five months to make a decision. It's too long, particularly in light of some of the initiatives that have been happening here where the local municipality and the region have been doing joint circulations on the first go-round, catching all of the technical agencies. There's nothing significant for the region to do with it, certainly not five months.

Our request is that sections 17 and 22 be reworked so that the time frames for OPAs be 120 days for the local municipality to make a decision. We think four months is quite realistic and that the region would need no more than three months to do their thing with it, so 90 days.

Those are our top five issues. As I've said before, we have many others. They've been addressed in our Ontario home builders' response to the government. We have some serious concerns. These are our most serious concerns. What our observations are in our discussions with other agencies is that there seems to be an unparalleled disagreement from a wide faction of groups about the bill from the association of municipalities, to the law society, to the professional planners' group to the regional government. I wasn't here this morning, but I suspect you've heard some of the same comments from Mr Edgington and Mr Hunter this morning.

We believe this bill is critical to the province. We must maintain a fair and efficient planning program to keep us on par with the needs of the province in competing in the provincial, national and even the international marketplace. It's especially critical here in Ottawa-Carleton where we have to compete with housing in the province of Quebec, two minutes from where we're sitting, where housing tends to be about 40% cheaper than it is here today, and the gap is widening, I can tell you.

Change is required. All we can hope, from this point on—this is our last stab at it—is that the government's going to exercise good judgement and make these changes and some other changes too. We'd certainly welcome getting into a discussion on this in the next 10 minutes that we have here.

Mr Curling: Thank you for your presentation. You have again echoed many things of some of the regions, and not so much the regions but some of the municipal-

ities, chambers of commerce, developers, many people who are concerned about this legislation.

It is said that it is a matter of efficiency at the level that would make this process work better more than legislation. Would you agree that it is unnecessary then at this stage to have legislation more than to get—I don't want to pick on the bureaucrats—the system working efficiently?

Mr Clarke: There's no doubt that I strongly agree with you. We feel that the legislation we have today is not the problem. You cannot legislate a time frame for four decisions when the problem isn't the planners getting their staff report together. It tends to be, most often, and I'll say it, provincial government agencies making their responses back to the local municipalities in a timely manner. The problem isn't legislation, it's putting a commitment in Ontario to the planning program at all of the provincial levels, providing qualified staff and putting a priority on the planning system in the province. It's not the legislation.

Mr Grandmaître: I'd like to refer you to page 3 of your brief concerning minor red-line changes. You say that the municipality must give public notice. We were told some five or six days ago by staff that red-line changes will be acceptable. So maybe staff can enlighten you and provide you with the latest news. Can the parliamentary assistant?

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Mr Hayes: If I may correct that, Mr Chair.

Mr Grandmaître: You're changing your mind.

Mr Hayes: No, excuse me.

Mr Grandmaître: It's only five days ago.

Mr Hayes: I don't believe that any staff here said that the red-lining would be acceptable. It's an issue that we've heard several times, and we are going to deal with that particular issue and hope we can resolve the concern.

Mrs Yvonne O'Neill (Ottawa-Rideau): That means there's going to be an amendment, is there?

Mr Curling: There will be an amendment, yes.

Mrs O'Neill: Okay. That's fair.

Mr Grandmaître: There will be an amendment?

Mr Hayes: We may have an amendment, yes.

Mr Grandmaître: You may?

The Chair: They're reviewing that.

Mr Hayes: We are reviewing that particular issue, and we will certainly deal with it, and yes, there may be amendments. There will be other amendments also to deal with some of the concerns that we have heard in these hearings.

The Chair: Mr Eddy, but be very brief because there isn't much time.

Mr Eddy: Mr Chair, as you know from the past, I'm always brief.

The Chair: I know.

Mr Eddy: Thank you very much for your concern and bringing it forward to us, because we really need to get on. The whole idea of this new act is to streamline the planning process but protect the interests of those

who want to be heard on any issue. You mentioned the point of subdivisions. Tell me, do you feel that having a meeting up front in regard to a proposed subdivision can and will save time at the far end, at the time when it's decided somebody may appeal to the OMB or not? We've been told that the facilitator is doing work along these lines. Do you have a feeling about that or would you like to elaborate on that situation or do you feel it's just too much time taken?

Mr Clarke: I do have some feelings and some thoughts and opinions. The number of appeals to the board on subdivisions is relatively low in proportion to the zoning and official plan appeals. The land use should have been confirmed by the point of a plan of subdivision. The subdivision is normally just about the laying down of lots, roads etc—

Mr Eddy: And conditions.

Mr Clarke: And conditions—between the approval agency and the applicant.

Mr Eddy: Right.

Mr Clarke: What we find, at least in the eastern Ontario experience, is that many applicants have such, I guess you would say, an ongoing relationship with interested groups, they've already seen the plan to get to the zoning and official plan stage. It's very difficult now to get zoning on a piece of land without having the concept already; that's overkill.

Mr Eddy: So just tighten up the time frame considerably and reduce costs?

Mr Clarke: Certainly, yes.

Mr Villeneuve: Thank you, gentlemen, on behalf of the Ottawa-Carleton Home Builders' Association. Time is money, and quite obviously when we look at 400-plus days, we're talking about a lot of potential time lost, money lost to, eventually, the home buyer. You're in a unique position here in that the province of Quebec is a very viable alternative for the first-time home buyers and otherwise, 30% to 40% more affordable. Bill 163, I believe, from what I've heard from you, will make land more expensive. Is that right?

Mr Clarke: Yes, and along with the policy statements that were issued in the spring, even more so.

Mr Villeneuve: I'm sure that in the province of Quebec they have very nice areas to build, as we have here on this side of the Ottawa River. How much of that 30% to 40% reduced cost in the province of Quebec is due to less bureaucracy, or what is the difference? Can you tell us?

Mr Clarke: There are many things as it relates to planning.

Mr Villeneuve: Yes.

Mr Clarke: There are less controls, less processes on the Quebec side, less soft costs to a developer to get land to the point where he can draw a building permit. In addition, the policies are such that the land market in Ottawa-Carleton is controlled, squeezed into tight areas, and land prices go up. On the Quebec side, there's more ability to build in different areas and to buy pieces of land and get it through the process.

Mr Villeneuve: So what you're saying here is that if you, as a developer, start with raw land and the official plan is acceptable for what you're intending, be it row housing, single family or whatever, the process and indeed the soft costs, which you have to build in and pass on, are considerably less. As far as you're concerned, the raw land would be fairly similar in price. The added cost is due to bureaucracy in Ontario as opposed to less bureaucracy or financial requirements in Quebec?

Mr Clarke: We more or less agree. I can't argue, the land is cheaper on the Quebec side. Again it relates more to the planning program over there, where there's more opportunity. It's more wide open in terms of where you select to buy land and build.

Mr Villeneuve: We understand that the Sewell report was not followed that closely in Bill 163. Are you familiar with Mr Sewell's report?

Mr Clarke: Yes.

Mr Villeneuve: Would you have some areas in this New Planning for Ontario that should be implemented which have been overlooked in Bill 163?

Mr Clarke: I guess the honest answer is, it's been some time since we went through it with a fine-tooth comb. The fact is that we've put it on the shelf. We've turned our mind to Bill 163; that's what's in front of us.

Mr Villeneuve: That's exactly what we have to deal with.

Mr White: Thank you very much for your presentation. I have a couple of questions, one specifically in regard to your presentation here. On the third page, after issue number 2, you talked about the changing of the draft plan condition to give public notice. I'm not quite sure what "the public" would be. Would that be the local residents?

Mr Clarke: Yes, it could be.

Mr White: It "also opens up the right of appeal by third-party interests." What's a third-party interest? Who would that be?

Mr Clarke: The first party is the applicant, the second party is the approval authority and the third party is an interest such as a community group or residents or a competing developer who might oppose a portion of the plan.

Mr White: With your experience, would this be occurring on a small building site, because I understand most of your membership are builders who might build half a dozen, 20 homes a year. Would this be mostly on a small building site or the larger plan of subdivision?

Mr Clarke: An equal amount.

Mr White: In your experience?

Mr Clarke: The chance for a third party, using my definition, is equal whether it's a small site or a large development. Some of the largest developments go through without opposition, because they happen to be greenfield areas, newly developing areas where there simply aren't too many people who have an interest, other than, say, maybe another developer.

Mr White: So the greenfield areas, those are also areas where you might be most likely to be having

developments on floodplains and perhaps bordering on to wetlands areas that would be affected by the legislation and the policies?

Mr Clarke: There is very little opportunity for that to happen any more with the way the policies have been set by the province, and that's been filtered down into municipal official plans. The areas where there are constraints now, there's very little chance to develop on those. They're already sort of out of the picture.

Mr White: How would you like to have the third party notified? The public, the local residents or it might be, as you were saying, a community group or an environmental group, how should they be notified?

Mr Clarke: In the same way that they are today under the current act. The notice of a decision is given in a public way, and anyone—it's wide open—who has solid grounds can make an appeal or a referral request. What we are talking about here is the new aspect of a minor change that really is just between the applicant and the decision-making body. There's no need for that to go to widespread public inputs and lose another 45 days in the process.

Mr White: You think that should be dealt with at the local level?

Mr Clarke: That's correct.

The Chair: We want to thank the association for the submission they made to this committee today.

1400

ONTARIO WOODLOT AND SAWMILL OPERATORS ASSOCIATION

The Chair: We invite the Ontario Woodlot and Sawmill Operators Association, Mr Barr.

Mr Harry Barr: Good afternoon. I'd like to thank you for the opportunity to present our concerns today regarding Bill 163. As you've heard, my name is Harry Barr. I'm the president of the Ontario Woodlot and Sawmill Operators Association, a newly formed association in the province of Ontario, two and a half years in existence. Our membership is approaching 600. We're experiencing tremendous growth. At this time, we have chapters from Sault Ste Marie to Windsor to the Quebec border. Our association is provincially based, and it's operated by regional chapters.

I am a woodlot owner. I operate a family sawmill business. I'm also a municipal politician, reeve of Pakenham township just north of here, but today I'm here representing the Ontario Woodlot Association; I'll try and keep the political to one side.

As a businessman and a local politician, I'm aware not only of the costs to the individual but the costs to the municipality and ultimately the taxpayer if delays in approval or OMB hearings are required to reach a decision. Today that is why I fundamentally agree with the need for streamlining the planning process to make it more efficient. I feel that is definitely necessary.

If this new planning reform is adopted by the province, it will fundamentally change how the planning system works in Ontario. Anyone who has had to deal with the planning department at their local municipality will tell you how long and complicated the process can be.

Having said that, I have some concerns regarding the provincial policies covering natural heritage and ecosystems. In its broadest application, paragraph 34(1)3.2 of the act, which prohibits buildings or structures within a significant wildlife habitat or woodland, could prohibit maple syrup producers and other non-harvest, sustainable, produced commodities from earning a living and contributing to the rural community.

The policy statements will not allow development in areas where there is a habitat of endangered, threatened or vulnerable species south and east of the Canadian Shield. As you may or may not be aware, there are over 900 plants alone which are considered threatened in Ontario, not to mention mammals and reptiles which are endangered, threatened and vulnerable. Since over 90% of southern Ontario is in private ownership, this proposed amendment under this policy statement could deprive any woodlot owner in southern Ontario from earning a sustainable living. Activities such as the construction of a maple syrup camp in your woodlot, which requires a work permit under provincial legislation, could be prohibited under this proposed legislation. I don't believe this is the intent of the legislation, but however this serves as an example of how this legislation could impact every law-abiding woodlot owner in this province.

In fact, in areas such as eastern Ontario, according to the Ministry of Natural Resources, there has been a net gain in forest cover in the past 30 years from 15% to 38%. This trend could reverse as land owners see woodlots as a liability if their woodlot is designated as significant. This would encourage owners to maintain their land in an unsustainable state to avoid possible implications of the limitation of dealing with an area designated as a significant woodland. Land owners in the future could see owning a woodlot as a liability instead of an asset and only available to those individuals with money, able to afford it.

Currently, taxes on rural non-agricultural land are deemed residential or have the potential for development under the current Assessment Act. Although the Fair Tax Commission agrees that the assessment of woodlots is unfair, revisions to the Assessment Act are not in the foreseeable future, as we understand it.

Proposed legislation also fails to recognize that wildlife can coexist in most woodlots in Ontario where sustainable and good forest practices are implemented. We therefore recommend that the proposed amendments be limited to significant ravine, valley or areas of natural and scientific interest.

There is a need to streamline the planning process. However, we are concerned that Bill 163 in its present form will open endless and expensive disputes for land owners and municipalities, making a mockery of the streamlining objectives.

Bill 163 will effectively confiscate property market values without compensation, in particular, woodlands, stream corridors, valleys, scenic ridges and those habitats of vulnerable, threatened or rare species. Development of rural land—most specifically, woodlots, valleys, corridors and ridges—will be forbidden. This will have a devastating effect on the rural economy. Woodlots on private

property would be viewed as a liability instead of an asset, since woodlots prohibit development. This could be a disincentive to replant land which is marginal or submarginal.

Recommendations: compensation for lost development rights of all private property within the identified boundaries to be made by the sponsoring authority; further, all property owners deemed to have a significant woodlot be notified prior to such designation—designation would be a conscience decision made by the land owner, and compliance would be voluntary—appropriate assessment and mill rate classification for such properties and all other woodland properties not part of a farm be established by the province prior to implementation of Bill 163; the terms “vulnerable” and “threatened” be deleted from Bill 163 and its supporting policy statements; the province resolve all conflicts and vagueness from Bill 163 and its policy statements before planning authority is transferred to the municipality; lastly, the province establish a fund to cover the cost of environmental impact studies required by property owners when an EIS has been requested by the province or other government authority.

This is our brief today, and if there are any questions, I'd only be too glad to try and respond to them.

Mr Villeneuve: Thank you, Harry, for your presentation. Let's cite an example here. A designated area, that may well be wetlands or areas of concern, and let's say the beavers get in there and they dam it up. Would you be able, as a land owner who possibly stands to have his woodlot completely destroyed by floodwater, to go in there and destroy that dam? Maybe we should ask the parliamentary assistant or the staff. That's a major problem. We've got areas where nuisance beavers have come into eastern Ontario and destroyed hundreds of acres of woodlot, and you know that.

Mr Barr: I've experienced it on my own property. The township has serious problems, all townships in eastern Ontario.

Mr Villeneuve: With Bill 163, if it's in a designated area of concern, an ANSI, do you feel that you would be able to go in there and do what has to be done with these beavers to protect your woodlot?

Mr Barr: No, not whatsoever.

Mr Villeneuve: You insinuate here, and we've heard it from a number of people, that indeed this bill may well discourage or prohibit the reforestation of areas which maybe should never have had the forest cover taken off, because once it's reforested it may well be designated as a fragile area of concern or whatever, and at that stage of the game the highest and best use of that land is nothing, which returns you nothing, and therefore, whether you have money or not, you're not going to invest in a depreciating asset. Your comments on that. We've had situations explained to us where property had been reforested and then designated, and qualified, accredited appraisers have gone in and established that a considerable depreciation in value had occurred and continued to occur because there was no demand for that land.

Mr Barr: As an association, what we've experienced

and witnessed so far is, that type of land, people are trying to sell it, or they go in and they clear-cut it today, and this is contrary to the beliefs and the theories of our association. We promote forestry, good and orderly forestry so it will be a sustainable forest for the future. But Bill 163 will cause people to attempt to abandon, to do bad things to the land. Planning will not take place.

1410

Mr Villeneuve: Your association represents woodlot owners and managers pretty well across the province of Ontario. We're trying to have one mould fit the whole province of Ontario. Your comments on that, from the input you get from your members: How many moulds do we need in Ontario? Is one mould for all of Ontario sufficient, or do we need to regionalize?

Mr Barr: We have to regionalize, because we have to recognize that in southern Ontario there is very little forest cover—different forest, mainly hardwood—and we have to recognize that. Move into the Sault Ste Marie area and you've got a different cover again. We have to regionalize, you're right.

Mr Villeneuve: Now, the province is divided by the great Canadian Shield, I gather, and certainly most of the areas of concern are on the south side of the shield and that's what this applies to. There is grave concern here. The taxes will not be reduced, quite obviously, and market value becomes a very elusive figure when you don't have a highest and best use. The concern that I think government should have is, who will pay the taxes that are now being paid in the event that we wind up with a market value of next to nothing? Do you have any comments on that? Who's going to pay the taxes?

Mr Barr: I can't answer that one. I don't know.

Interjection: They'll walk away from it.

Mr Perruzza: The taxpayer. Remember him or her?

Mr Villeneuve: The taxpayer?

Interjection: Nobody.

Mr Barr: Excuse me. What will happen in the townships, I'll tell you, and I'll be very clear about it, you'll get people—

Mr Villeneuve: Put the other hat on, the municipal hat now.

Mr Barr: Yes, right. You'll get the clear-cutting—and it has happened in some townships—and the property owner who clear-cuts will move on. If he cannot sell it, he will let it fall back for tax arrears to the township and the township becomes stuck with it. That's what's going to happen.

Mr Villeneuve: That's your taxpayer.

Mr Barr: That's your taxpayer right there, you're right.

Mr Villeneuve: Thank you.

Mr Gary Wilson: Thanks a lot, Mr Barr, for your thought-provoking presentation. In fact, I'd like to follow up on some of the things Mr Villeneuve has questioned you about, this idea of the one mould, for instance.

I represent the riding of Kingston and The Islands, and it's a combination of urban and rural land. I'm aware that you have to have policy and legislation that fit both

areas, so I'm interested to know, of course, since you're talking about rural development, which is a crucial subject in my area as well, what it is, just to clarify your position—you mention, "There are over 900 plants alone which are considered threatened in Ontario, not to mention mammals and reptiles which are endangered, threatened and vulnerable." What is your view of that situation? What steps do you think should be taken to protect or to address the vulnerability, if any? What is your position on that?

Mr Barr: Well, we recognize that there are endangered species. They have to be respected, but we feel development can take place around them, and some of these species can live with man, I'm quite sure, quite capably.

Mr Gary Wilson: Sure.

Mr Barr: I mean, we just can't freeze large blocks of land throughout the province of Ontario and say it's an endangered species. I'm sure we can accommodate it.

Mr Gary Wilson: So you agree that there are things that can be done so that there is—

Mr Barr: Yes.

Mr Gary Wilson: —let's say, something that works to the benefit of both the vulnerable species and ourselves.

The second thing is, and maybe the staff can help us on this one, when you say, "Activities such as the construction of a maple syrup camp in your woodlot, which requires a work permit under provincial legislation, could be prohibited under this proposed legislation," I just wonder how often that might happen. What is the experience of that kind of regulation?

Ms Norma Forrest: My name is Norma Forrest. I'm with the Ministry of Municipal Affairs, and I'd like to address a couple of the policy issues that were raised today.

The first thing I'd like to do is explain what the policy says about woodlands and endangered and threatened species' habitat. In response to the consultation, the government changed the policy to make it a bit less restrictive.

Right now, the policy provides that where a woodland has been identified as significant, based on criteria established by the Ministry of Natural Resources, it can be classified by council into either areas where development isn't permitted or areas where development is permitted. That's based on, I guess, the sensitivity of the site or council's decision about how much development could be permitted there without threatening the woodland, and that's done through the official plan.

In response to the question about what is development for the purposes of the policy, good forestry practices under the Trees Act are definitely not considered to be development, so the cutting of trees etc under the Forestry Act is not considered to be development for the purposes of the policy.

In terms of the endangered and threatened species, there is federal legislation about endangered species, and what the policy says is that significant portions of the habitat of endangered and threatened species are to be put

into a no-development designation. That's not the whole area, but just the critical portions of that habitat, where no development is permitted. Councils can permit development in other portions of the habitat of endangered and threatened species and in the habitat of vulnerable species if it's decided that development is not going to be a threat to the species.

The Chair: Thank you very much. Does that answer some of your questions, Mr Barr?

Mr Barr: Yes, it helps.

Mr Gary Wilson: So I take from that that there is a combination of things that can be done to serve the interests of all the living species in the land, which I think is a progressive and sensitive way of approaching the issue.

Mr Villeneuve: Will you amend 163 to look after that?

Mr Eddy: Thank you, Mr Barr, for coming forward and giving us your concerns, because you have some very real concerns that need to be met and I'm pleased to see that you're relieved somewhat with the statements of the ministry people. However, does your municipality have an official plan?

Mr Barr: Yes, we do.

Mr Eddy: And you'll be required to change that official plan, of course, to meet the policies of the provincial government over a period of time.

Mr Barr: We've just spent a large sum of money to redo it.

Mr Eddy: You've just completed a new official plan—

Mr Barr: We've just completed and approved—

Mr Eddy: —that you hoped would do you for a few years, I take it.

Mr Barr: Well, at least five years.

Mr Eddy: Yes, at least. I would imagine that your association is very concerned about the growth of trees and ongoing supply. I'm from southwestern Ontario, and in certain areas there's a lot of forest cover; in other places there is little. You'd be aware that several of the upper tiers, the regions and the counties, have passed bylaws under the Trees Act regulating the destruction of trees, and I'd like to know how you feel about that.

It was done to indeed ensure a supply of sawlogs and material from the forests on an ongoing basis, protecting the forests and preventing their clear-cutting. Now, that's in force in many areas; in some areas it isn't. Do you see that as a safeguard and a good thing and something that perhaps all municipalities should at least look at? What is your view on those?

Mr Barr: You've hit an area of great concern to me. In Pakenham township, located in Lanark county, in 1985, I attempted at the county level to introduce a bylaw to regulate tree-cutting. We had one prior to that; it was inoperable, ineffective, and hadn't been applied for the last 20 years. It was there, but—anyhow, in 1985, I attempted to update it, get some teeth into it to apply it. Well, it didn't work. The property owners decided it was an infringement upon their property rights and on and on.

It lost. Today they're coming back to our association saying, "You've got to do something about the bushes; they're disappearing. The clear-cutting's going on," and I say, "Well, hell, fellas, in 1985 I told you that."

I was in business. Small timber came in and it's still coming in. There are bad things going on out there; not everywhere, but in a lot of places. We've got to do something or there won't be a bush in eastern Ontario in 20 years' time—or 10 years' time.

1420

Anyhow, one of our items for our agenda this year is to look at the tree-cutting bylaw, particularly in our area. I honestly believe there should be one in every region or county throughout the province of Ontario, and we should find the mechanics to apply it. It's not expensive, it doesn't upset the property owners and we have to basically educate the people.

Mr Eddy: Yes, I agree with you—

Mr Barr: Some areas have to be clear-cut to start over. There's nothing but poplar because somebody clear-cut maybe 40 years ago. The white pine is gone, or the oak or the maple; the poplar has taken over. It should be clear-cut and planted. But it goes back to communication and education. I believe in a tree-cutting bylaw.

Mr Eddy: I'm sorry to hear that they didn't go along with your ideas. It's been shown that you were—

Mr Barr: Well, it was close; one vote.

Mr Eddy: —trying to do the right thing. In many counties and regions of Ontario it has been enforced, and of course it prevents clear-cutting except in the case of certain poor species. So it seems to me the tools are there, one, to preserve woodlots. Second, and more important of course, is to guarantee an ongoing supply of sawlogs. That's a source of good income these days to any property owner, it seems to me.

Mr Barr: A bush lot is a harvest, but you can only harvest it every 20 or 25 years. If it's managed properly you can keep going back and back, but if you clear-cut, you don't go back for 100 or 150 years.

Mr Eddy: You're so right. I do have a concern, however, with the designation of wetlands and I'd like your views on that. We've been told that the designation of wetlands has been done by MNR. I don't know whether the criteria we're now looking at were used when that was first designated. Unfortunately, property owners didn't know people were on their property with a view of designating, and the point of compensation has come up. Some lands will not be able to be used for any developable purpose, I guess. How do you feel about the matter of compensation?

Mr Barr: Our association's thoughts on the wetland issue? Well, we believe preservation of wetlands is necessary, number one. We believe they should be preserved, but the mechanics of the whole system are wrong. Now, it started back a number of years ago; it didn't start yesterday: lack of communication with the public, lack of public meetings, whatever you want to call it, and education. It wasn't there.

It's now coming out today that it should have been there, and we feel there should be some way to compen-

sate the property owners. You heard in my brief, let the province of Ontario land bank it if they feel so seriously about it; relief in taxation, some way to help the property owner.

Originally I was one of the strong opposers, but when the wetland policy was explained in detail, I came to understand that it isn't just quite as devious as it's let on to be. But there can be refinements to it. There can be development within certain areas of it and there can be timbering within certain areas of it, but it still needs refinement and cleaning up.

Mr Eddy: Thank you for your views. I appreciate it.

The Chair: Mr Barr, we thank you for coming and thank you for sharing your views with us today.

TOWNSHIP OF WEST CARLETON

The Chair: We invite the township of West Carleton, Mr Chadder.

Mr Tim Chadder: Good afternoon. The township of West Carleton is located on the western limit of the region of Ottawa-Carleton. It is a very large township created by amalgamation of three former townships, vastly a rural area, with some village development and significant areas for all of the areas currently covered by the different policy statements out from the province—the wetlands, agricultural lands, floodplains and mineral resources as well.

The township has reviewed the new legislation in general terms, in terms of how it may very well affect the ability of the township to carry out the planning that is expected of it. We had a concern over the subdivision process. The time frames in it are an excellent idea in order to require people to provide comments in a timely fashion. We think it is an excellent idea.

The problem with it is, two of the concepts which were embodied in the new legislation are empowerment to the local municipalities and streamlining. With the ability of the provincial agencies to still not respond in a timely manner, we think that could still lead to problems; as well, the unclear delegation to the local municipalities and the ability of the local municipality's official plan to be the single document that should be referred to. In terms of regional official planning, they're required; local official plans are not required. It's our belief that if a local official plan is to be required, then you can deal without the regional official plan because there has to be conformity throughout the plans, providing one document for the public to refer to, which would make our job a lot easier in terms of our administration.

The second issue that was of concern to us was the role of the guidelines from the provincial agencies and the problems they cause on a regular basis because they are administrative in nature, yet they are used as policy. We're not sure how to address that concern, but it's one that we'd like to see cleared up in terms of that they would only be guidelines. If there's a policy which clearly dictates in the official plan, that's what should be utilized, because the agencies of course get to review the policy statements before they get put into the official plans.

With respect to notice requirements and requirements

for appeals to the board, I believe there should be a consistent approach for all applications which are filed with the municipality in terms of time frames, requirements for notice, as well as requirements for anybody raising concerns or objections. Keyed in specifically on the zoning requirements being different within the appeal process to the board, there's some different wording used.

I heard just earlier today about the trees legislation, and the township concurs that we need more ability to control the tree-cutting within the bounds of the township. The region of Ottawa-Carleton currently does have a bylaw for tree-cutting, but it is very weak and we have found that its enforceability is quite limited. One of the key problems is that it's keyed on development applications. So you can control a development application for tree-cutting, but before there's an application, we need a policy that can control that within our official plan, without there actually being an application in front of us.

The role of the local decision-makers: Right now, we are working with Ottawa-Carleton to try and come up with some form of solution to this duplication that we find between regional and local official plans, as well as the small differences in wordings and your conformity questions, and then you add the conformity to policy statements. Right now, to provide information to the public, we have to provide them with a copy of the policy statements, a copy of the regional official plan, a copy of the township official plan, a copy of any guidelines which may be superimposed on top of all that, and to have an easy understanding for people is not really there.

In terms of the implications in the act, I think we'd like to see it strengthened to provide that local municipality with the ability to pass the legislation through the official plan, which can incorporate all of those policies and be the point of reference for anybody who is trying to deal with development applications.

That's really the summary of the concerns we had out of the package that we got.

Mr Gary Wilson: Thanks a lot for your presentation. I would like to just follow up on, since the previous presenter also highlighted the trees issue, just what your bylaw does say or why you think it's too weak. Where did it come from?

Mr Chadder: Actually, we don't have in the township a bylaw for trees. Because of the current legislation, the format of it, we found that enforceability of it was lacking and that our attempts were mostly going to be fruitless in terms of trying to protect stands of trees. Ottawa-Carleton does have a trees bylaw per se, but of course Ottawa-Carleton does not have enforcement staff, so then we get into a problem with delegation of enforcement requirements and, do you have the authority to enforce the bylaw? So we end up not doing anything other than just by persuasion.

Mr Gary Wilson: Supposing you did have the wherewithal for a tougher bylaw, what about enforcement there that you would be responsible for? Would you find that too onerous?

Mr Chadder: The township currently has bylaw

enforcement staff; as well, we have planning staff, building staff who are all on the road on a regular basis and able to see what's going on in the township. It would not be that impossible to enforce, no.

Mr Gary Wilson: Perhaps we could expand on this issue of the coordination between the township and the region, with your planning staffs, for instance. How does that work out in practice?

Mr Chadder: In practice, what we have is regular meetings between the various directors and commissioners throughout the region to coordinate any policy review. That's been established. It's been getting better in the past few years, but what we still end up with in practice is the region adopting an official plan amendment which then has to go through the provincial approval process, and then the townships enacting the same amendment or a similar amendment which then has to be processed through the region. So we see a great duplication of requirements. We all have to provide notice to the same agencies twice. MOEE and MNR are circulated in duplicate. I don't see a change in that in the act with it saying the township may have an official plan; we are assuming that the same procedurally has to be done to get it adopted.

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What we will see again, no doubt, is the region will have its policy. They have a broad-brush policy statement which conforms to anything from the province, and the township deals with any local, specific items in more detail as required. In practice, we don't see very much stepping on the toes of each other. There's a lot of cooperation at the staff level. Currently, with the same politicians sitting locally and regionally, there's good contact politically. With new changes to the regional government up here, we're now going to have a directly elected regional council. I'm not too sure how that's going to impact.

Mr Gary Wilson: You'll just have to wait for the other partners to see how that's determined.

You say the surrounding area, again thinking of the township council, perhaps with a county planning system. Do you see that there can be imbalances in what the township has to contend with versus what the county has to contend with and can you perhaps offer some suggestions about the kind of cooperation that can exist there between the two levels of planning? I'm thinking on the county level, they have considerations that don't necessarily apply to a township. There wouldn't be the same kind of experience and there might be less grounds for cooperation.

Mr Chadder: The only one I've got any direct experience with locally is Renfrew county and how it deals with its applications and how it deals with its process. It's very much a county-driven process. The locals really use the county planners to do most of their work. So there's no duplication really per se in that case. It's single-tier-driven. I guess that's where the region has created that double tier, so it is a very different situation.

With respect to how you conduct it, I think there is a possibility for a lot of it to be done regionally, but then

the problem gets into, when there are areas that they don't deal with, how do you deal with that split? That has been traditionally a problem, but most of the time the local municipalities will deal with—if you just want to take an application for a subdivision for example, most of the local municipalities process the subdivision all the way through the application. The region will receive all the comments and all of the draft conditions and then just basically rubber-stamp it.

We still have the province to deal with because the region doesn't have the expertise on staff to deal with all of the issues that are involved, especially in the rural setting. They don't have the hydrogeologists on staff. Those kinds of issues aren't dealt with. With the wetlands, they don't have anybody who's a specialist in biology. We still deal with the provincial agencies. So in that kind of case, we duplicate, and it's very feasible you could cut down the time requirement.

Mr Grandmaître: On the question of designating significant woodlots and wetlands, there's also the question of compensation. If there is a reduction of your assessment because your land has been designated, ie a woodlot or wetlands, then you don't want to pay extra taxes for this piece of land. So there is a reduction. For instance, let's say the assessment people give you a reduction in your assessment. I've had reeves and mayors tell me that if there is a reduction in assessment—as you know, assessment equals municipal tax dollars. Now municipalities are saying, "Look, if you're going to reduce our assessment, then we want to be compensated as well for the loss of taxation." What are your comments on that kind of a workout?

Mrs O'Neill: He's wearing his finance hat.

Mr Chadder: I better try to find a financial hat. I'm sure my finance commissioner will kill me for anything I say, no matter which stand I take.

Our reputation in West Carleton of course—we have what's known as the Carp hills, a very significant area which has been acquired by the region over the past few years, great tracts of land out of that, because the region has taken the stand that it is an environmentally sensitive area. Under their policies and their official plan and through their budgeting process, they have allocated funds to purchase. In turn then, we deal with the other issues under not direct taxation but grants in lieu and other forms of reimbursement to the township from the region, for example.

In terms of the reductions in taxes, we already see a great number of those through the various programs that the province had offered. For example, there were reductions for people who had trees registered with the Ministry of Natural Resources. There was a program there, and there are some areas which are wetlands which have already received reductions in the township.

We see the clearest increase in our value added to the land after there's actually a dwelling constructed on it. That's where we see a substantial increase. We in West Carleton do have a substantial number of classes 1 to 3 wetlands as currently defined, and I don't doubt that there will be a definite decrease in our revenue generated from those lands if there are indeed reductions in assessment.

Quite frankly, our council hasn't even addressed that part of the issue yet, and I know our finance people have looked at it with great concern, but they haven't recommended anything such as you've just gone through in terms of asking the province to reimburse us.

Mr Grandmaître: As you know, a municipality can apply to the Ministry of Municipal Affairs, if I'm not mistaken, if there's a loss in your assessment of more than 4%. That's the Assessment Act, I'm sorry. If you lose more than 4% of your assessment, you can apply to the Ministry of Municipal Affairs for some compensation.

Ms Dewar: We're not familiar with that act, but we can certainly get the answer for you.

Mr Eddy: Thank you for bringing your concerns forward, and we understand. Is the conservation authority active in acquiring any of these lands? You said the region was, and as I understand it, the region is paying you a grant in lieu of some sort. I wasn't aware of that. If a conservation authority acquires the lands, of course, the conservation authority then will pay, on the assessed value of the lands, full taxation. It's the region that's doing it and there is a system of grant in lieu of taxes.

Mr Chadder: Yes, there is.

Mr Eddy: And how is that working out?

Mr Chadder: Presently, it seems to be working out fine, in terms of the ability to make sure you're going to get payment. The region hasn't balked at that to date.

Mr Eddy: Is the region acquiring lands that have been designated by MNR according to its criteria as significant wetlands etc?

Mr Chadder: The region, in its official plan of both 1974 and 1988, actually designated lands as natural environment area. There were some substantial tracts of land in the east known as Mer Bleue, as well as in Rideau township known as the Marlborough forest. At that time as well, the Carp hills were also designated. The region has been active in acquiring lands in accordance with that policy. So that has been predating any of the policies that the province had enacted.

Mr Eddy: That's very commendable. I'm pleased to hear about that.

Mr Grandmaître: We do a good job in Ottawa-Carleton.

Mr Chadder: At this time, they are still acquiring lands. They just acquired a subdivision which would have been registered, and they are in the process now of working with the township to deregister that subdivision of the township and keep it as natural environment.

Mr Grandmaître: Good.

Mr Sterling: Perhaps we could have some of the people from Municipal Affairs answer this question. If in fact a property owner requests a reassessment of their property because it's been designated as a wetland, who pays for the reassessment costs?

Mr Grandmaître: The municipalities.

Mr Sterling: No, I was asking the—

Interjections.

Mr David Root: My name is David Root. I'm with

the Ministry of Municipal Affairs. Under the amendments to supplementary assessments, the municipality would be responsible for paying for that supplementary assessment.

Mr Sterling: So not only does the municipality lose because a lot of their lands have been designated as wetlands, but they lose in the process as well, so it's sort of a double whammy.

Mr Root: The question that was raised earlier that Mr Grandmaître did comment on is the ability of a municipality to make a request through the Ministry of Municipal Affairs for a grant in lieu of that loss. The policy has been that where there is at least a 4% to 5% loss beyond any—where there has been a loss, where the municipality is able to assume the first 4% to 5% of that loss, it is not an anticipated loss, then they may apply to the minister for consideration.

Mr Sterling: Okay. I just wanted to point out the double whammy that these people will be getting hit with. We had this morning the region in talking to us, and they were talking about delegation of power, for instance for subdivisions. Do you feel that the township of West Carleton is in a position to assume that responsibility?

Mr Chadder: At this time, West Carleton has not partaken in the region's delegation. Right now, they do it with some of the urban municipalities. For them to process a subdivision, the region still signs off at the end, but all the processing is done at the local level. We are currently working with the region to establish that position for West Carleton. I don't see any problem in doing it with the township. We have professional engineers on staff; we have professional planners on staff; we have the ability to still work with the ministries, which is what we do currently. The region has very little role to play in the actual designing of the subdivision or in the designing of the conditions for draft approval. They are mostly administrative conditions that the region attaches at this time.

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Mr Sterling: I think it's important, however, to bring a balance to the discussion too, in fairness to those who would like to decentralize all planning power, and that is that—and perhaps you can provide with me the dollar figures—very recently, or I guess the work is under way now, the region and the province are pouring a huge amount of money into the village of Carp to provide it with water. Maybe you could enlighten me as to how much each is putting into this project.

Mr Chadder: It's being done at an 80% provincial subsidy.

Mr Sterling: I think it's—what is it?—an \$8-million to \$10-million project?

Mr Chadder: I believe the total project was in at around actually about \$18 million.

Mr Sterling: Eighteen?

Mr Chadder: Yes. It's coming in substantially under budget of course with the current prices, but it is a very high pricetag.

Mr Sterling: This is where I always had difficulty with those who would say local autonomy is good till the

end, because basically other taxpayers in the province are having to bail out residents in the township of West Carleton at this time for what one might describe as poor planning in the past in terms of the available water supply for those people in West Carleton and the ability of it to take septic sewage. In terms of the delegation that they're asking for in the act, the qualifiers are very, very important.

Mr Chadder: I believe that the qualifier is clearly established in the fact that the province has commenting authority and the ability to set conditions, provided the region is established with the same criteria in its ability to withhold the draft approval with its conditions not being met or setting its conditions appropriately. I think that could be covered.

With respect to Carp, in terms of the past practice, we're dealing with a subdivision, the two plans, if everybody understands the numbering practice in the subdivision planning process, Carp was number 148 in the whole process of subdivision planning, registered sometime in the late 1890s. That is our problem area. The area that had been registered in the 1870s is actually still recording good water and very able to produce the septic areas that are required. The need for the coordination between the levels, I strongly agree with. You cannot have one agency with the overall power to just say, "Yes, this is fine," without ensuring that all of the policies are met. The ability through the subdivision process to require such consultation and concurrences from all levels, I think you can streamline it by leaving it at one level.

Mr Sterling: In Manotick, which is another area that I represent in this riding, the province recently bailed them out of a water problem. Again, it was in the old village park, but you don't know how much is caused by—well, it was caused by a business in the area which was not properly regulated, and the province, I think, wrote a cheque for \$4 million or \$5 million. So it's the balance between—with planning power comes planning responsibility as well, and unfortunately, the small municipalities can't meet those urgent needs. Anyway, I just thought it's interesting to point out both sides of the equation when you're dealing with these things.

The Chair: We've run out of time. We thank you very much for coming and for submitting this brief to us.

FEDERATION OF CITIZENS' ASSOCIATIONS
OF OTTAWA-CARLETON

The Chair: We invite the Federation of Citizens' Associations of Ottawa-Carleton, Ms Amy Kempster.

Ms Amy Kempster: Good afternoon. My name is Amy Kempster and I'll be presenting the brief, which I believe you all have copies of, from the Federation of Citizens' Associations of Ottawa-Carleton. The major items in this brief were agreed to at a meeting on Monday night of the federation in Ottawa.

The Federation of Citizens' Associations of Ottawa-Carleton is an umbrella group of over 20 community associations in Ottawa-Carleton. Many of our activities are concerned with planning. In particular, we have contributed to the recent official plan reviews conducted by the city of Ottawa, and earlier to those of the regional

municipality of Ottawa-Carleton, and we've also participated in hearings of the Ontario Municipal Board.

We believe the bill improves significantly on the present situation and we particularly wish to support part II, local government disclosure of interest act, 1994, and other measures related to open local government. Because of time constraints, we will focus primarily on facets of the bill which we believe should be improved, with a few comments on specific items that we wish to support. Where applicable, we shall identify relevant sections of the bill and the act, and in most cases, our recommendations carry forward things that we have mentioned in letters to ministers since before the Sewell commission began to meet.

First of all, I'm going to talk about items not currently mentioned in the bill. One item that one of our members brought forward, and he comes with a great deal of background because he works in the Auditor General's department, suggests that we should have an item in there about accountability. A crucial element of democracy is missing. It is the obligation to account publicly for this discharge of responsibilities of office that affect the public in important ways. We therefore recommend that the following simple provision be included near the beginning or end of each act: "All public bodies with responsibilities under this act shall report annually to the minister on the discharge of their responsibilities under the act." We think this would start the process of building accountability.

Intervenor funding: In the Sewell report, recommendations 85 and 86, it is suggested that there be intervenor funding. We've written on this several times in the past. Intervenor funding will not eliminate all the unfairness in the present planning process, but would at least level the playing field. Community associations have no money, so if we want to present our position to the OMB, we need some sort of support in the form of intervenor funding. I'm talking about positions which are not frivolous positions, which have been thought through and would be seen as in the public interest. So we would suggest that there be an effort to implement recommendations 85 and 86 of the Sewell commission.

OMB audiotapes: People with money can arrange to have court reporters take notes at an OMB hearing; people with money can't. We suggest that the OMB be required to audiotape hearings at the request of any party, and to make the tapes available on a daily basis to all parties who request them.

Since the members of the board now take longhand notes, this might also shorten the hearings and decrease the costs for all parties. We're not suggesting court reporters; we're suggesting audiotapes. This is not expensive, and we think it would make things easier for the people on the OMB board and easier for all parties.

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We would also like to see that unincorporated citizens' groups receive not only party status but appellant status before the OMB and committees of adjustment, as recommended in the Sewell commission recommendation 84(a).

There is another item that was not in the bill that we'd like to see. We support the provisions for interim control bylaws. However, we want to see that there be some teeth in the arrangement so that if a municipality says it's going to do a study and then doesn't do it, there's some way of either the developer or the citizens forcing the municipality to do the study. We feel that there's a lack in the interim control bylaw process at the moment.

We like the Sewell recommendation that there should be consideration of watershed situations in doing planning, so we recommend that the bill include, in line with recommendation 50 of the Sewell commission, a requirement that upper-tier official plans "incorporate watershed considerations."

We're confining it to the upper tier because we feel watershed considerations, the whole gamut of them as indicated in Sewell recommendation 50, are better dealt with at that level. If a local municipality wishes to include them, then that's well and good, but not all local municipalities have official plans and we feel the appropriate place to require the watershed planning is at the upper tier.

Support for items in this bill: We strongly support the section which adds the purposes, and particularly, for our purpose, "to provide for planning processes that are fair by making them open, accessible, timely and efficient." We like that.

We're aware that some municipal staff, including our own region, prefer "have regard to"; we like "shall be consistent with." We feel it will provide more certainty.

Section 9 of the bill, section 16.1 of the act: We support the section and others which emphasize the consideration of environmental matters within the planning process.

Subsection 34(1): We are pleased to see the expansion of subsection 34(1) to spell out a number of important environmental, scientific and heritage protections. I might mention that woodland protection within urban areas is particularly important because there usually are not many woodlands left within urban areas.

Suggested additions or changes to the bill: In subsection 3(1) we have a definition of "official plan." We feel that an official plan comes from the people, and there was a booklet put out by the Ministry of Municipal Affairs that suggested "is based largely on input made by citizens through the public participation process."

In line with that, we feel that should be reflected in the bill. We recommend that the definition of "official plan" be changed to read:

"'official plan' means a plan that is,

"(a) consistent with the purposes of this act under section 1.1 and the policy statements under subsection 3(1);

"(b) based largely on input made by citizens through the public participation process; and

"(c) approved by an approval authority under sections 14.7, 17 or 19."

Section 9 of the bill, subsection 16(b) of the act: The power to modify public consultation procedures within an

official plan is all very well so long as an official plan cannot reduce the minimum notice requirements that are otherwise prescribed.

Community associations, being volunteer organizations, sometimes have trouble because addresses change from year to year and so on and you have to contact your members before you come up with a position. So we do sometimes need the minimum times that are mentioned and we don't want official plans to reduce those times.

It would be useful for us if performance standards for public notification were drawn up by municipalities and their success in meeting the standards made a part of the annual accountability report.

On page 12, in section 10 of the bill, subsection 17(14) of the act, we recommend that the word "as" in the second line be replaced by the words "that has expressed an interest or made representation in respect of the plan, or that..."

The decision as to who should receive the information is too important to leave in the hands of municipal staff with no clear entitlement spelled out in the act. We feel that should be corrected so that it's clear that anybody who has expressed an interest or made representation in respect of the plan would be notified.

In section 10 of the bill, subsection 17(22) of the act, we believe that a procedure such as that set out in subsection 17(14) above should be prescribed to require the approval authority to allow interested parties adequate opportunity to comment on a proposed decision before it is adopted.

We had a situation where the city of Ottawa official plan went through, then it came to the regional council and there were many, many modifications made at that point. Public notice of a planning committee meeting came out on a Sunday for a meeting on the Tuesday. Luckily, our actual association had been notified by one of our councillors and we were able to provide our position on some of these modifications at that meeting, but the vast majority of the public were not, and they had participated. Many of these modifications changed things that they thought were in the official plan. They were made normally as a result of developers coming and wanting something saying, "We'll refer this." The city said, "Well, we'll modify it so maybe it won't be referred etc," but they never consulted the other people who were involved in the official plan process.

So we would like subsection (22) be amended to read:

"(a) If the approval authority proposes to modify and approve as modified or refuse all or part of the plan, the approval authority shall, before adopting such a proposal, give written notice of the proposal and the reasons for the proposal to..."—and these are the groups which are identified in subsection (22)—"...and shall give them opportunity to submit comments on the proposal for 30 days from the day that the giving of written notice is deemed to be completed under subsection (25).

"(b) When the requirements of part (a), if applicable, have been met and the approval authority is satisfied that its proposal as finally prepared is suitable for adoption, the approval authority may adopt the proposal as its

proposed decision in respect of the plan.

"(c) The approval authority shall give written notice of its proposed decision containing the reasoning for that decision and other prescribed information to..." the list of the groups that are mentioned in subsection (22).

The next section we wish to comment on is section 10 of the bill, subsection 17(24) of the act. We are disturbed by the introduction of new OMB appeal fees and the possibility of their increase. The current sums may not be onerous for municipalities or developers, but they would add yet another barrier for citizens and citizen groups seeking justice and redress.

Section 10 of the bill, under clause 17(29)(a) we are disturbed by the wide latitude that the approval authority staff have in interpreting "do not disclose any apparent land use planning ground." In the first place, the heading of (a) should read "the approval authority can reasonably show that," not "the approval authority is of the opinion that."

Concerning subclause 17(29)(a)(i), we don't have planners at our beck and call. To make it possible for citizens to seek justice, the act must define "planning ground." If it's not defined, it's wide open. Unlike "generally accepted accounting principles," there is no "generally accepted planning principles." What is a good planning ground? We don't know. You have to tell us. It has to be in the bill. If it's not in the bill, you are taking away justice from community associations that don't employ planners. Then only the developers have experts to say what is a good planning ground. You have to define that in the bill, otherwise the bill is very flawed.

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We also foresee several pitfalls under (29)(b), "did not make oral...or written submissions." Taken literally, if the presidency of an unincorporated group changes, the new president could be barred from carrying forward any changes initiated by a predecessor. Also, in the case mentioned above where a change in the official plan takes place with no warning at the final council meeting, no written representations would be possible at that meeting, and in some municipalities no oral presentation is allowed.

The main item we're appealing from the Ottawa official plan is one that arose from a modification made at the regional level. It was not in the plan at the city level. We're appealing it. We did have some notification of that but this illustrates the sort of problem that could occur. The council could make a modification at its final meeting approving an official plan. What do you do then if you didn't know it was going to happen until that council meeting?

I think that (29)(b) is unnecessary and prejudicial. I think maybe the developers would agree with us on that one too because it would affect them equally. If some things were done at the last minute, by council, on a particular item in the plan which affected one group of developers and was in favour of another, if that was there, they wouldn't be appealing it. I think that you need to protect all parties by thinking twice about that one.

In section 10 of the bill, subsection 17(47) of the act,

we strongly disagree with the continuation in this bill of limitation on appeals beyond the OMB to matters in which the minister has expressed provincial interest before the hearing. It strikes us as grotesque that there is no possibility of review of the decisions of an appointed body with such drastic powers. This clause would have prevented the citizens of Toronto from stopping the Spadina expressway extension.

Finally, we think the Ministry of Municipal Affairs needs to do to a study of OMB's decisions in recent years involving citizens' groups and citizens. An earlier study found that the success rate was low and declined significantly as the importance of the issue increased. The results of a new study could indicate that there is a continuing major problem with fairness in the dispute resolution mechanism provided by the OMB under its present constitution and procedures.

In the meantime, adoption in the legislation of the proposals we've made in this brief would help empower citizens' groups and citizens and level the playing field to a significant degree.

Thank you very much for listening to my presentation.

Mr Grandmaître: On intervenor funding—you're being incorporated?

Ms Kempster: We are incorporated. Yes.

Mr Grandmaître: Are you saying that all groups that are incorporated should receive intervenor funding if it's part of this bill? At the present time it's not, but let's say the minister or the ministry decides to include intervenor funding. Who would qualify for intervenor funding: groups that are incorporated or individuals?

Ms Kempster: I would think they would have to prove that their case was in the interests of at least their neighbourhood, a significant-sized neighbourhood. Now, I would not require their being incorporated.

What Sewell has suggested here in his recommendation 85:

"(a) the intervenor represents a clearly ascertainable public interest, consistent with provincial policy, that should be represented at the hearing;

"(c) the intervenor does not have sufficient financial resources to enable it to represent the interest adequately;

"(d) the intervenor has made reasonable efforts to raise funding from other sources;

"(e) the intervenor has demonstrated concern for this issue at the municipal level;

"(f) the intervenor has attempted to join together with other objectors;

"(g) the intervenor has a clear proposal for the use of any funds that might be awarded."

Mr Grandmaître: Would these groups have to be registered just like lobbyists?

Ms Kempster: I wouldn't say they would have to be registered, but the powers might, in their wisdom, require that. I would have no objection to that, that groups that might wish at some time in the future to have intervenor funding should register with the province. I would not object to that at all. I hadn't thought of it as something that would be required but I see no problem with it.

Mr Grandmaître: I'm not saying it's required. All I'm saying is that lobbyists do have to be registered because they are lobbying for something. Don't you think that intervenor funding, if it goes through, should be, let's say, accorded only to groups that are registered? A group can be formed overnight.

Ms Kempster: Groups normally don't form overnight unless there's an issue that hits the neighbourhood so hard that all the residents or a large part of them are concerned. I would say the principle here is that the group must show that it represents—

Mr Grandmaître: The community.

Ms Kempster: —the community that it purports to represent, but I would not go further than that.

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Mr Villeneuve: Thank you very much for an interesting presentation. Should intervenor funding, and I follow up on my colleague M. Grandmaître's questions—I think people in the legal profession, to which my colleague the member for Carleton belongs, and the engineering profession and the planners would have a real field day.

You've added considerable cost to the planning process, should indeed your presentation be accepted verbatim. Would you have any idea how much you would add to the cost of, say, an average single-family home?

Ms Kempster: Do you mean with intervenor—

Mr Villeneuve: Intervenor funding plus the time process. We've been told that at present the Ottawa area is about 30% to 40% more expensive than a similar area across the Ottawa River in Quebec.

Ms Kempster: First of all, our association participated with the home builders and with other groups. The city of Ottawa has had what they called a "better way" task force to shorten the development process in Ottawa and we agreed with what that task force came up with. One of the emphases in this task force—and they can't require it—that we liked was early consultation with the community. They can't require it before they actually get an application, but their intention is, and I believe our planning staff on this, to suggest that developers get in touch with the communities early.

We believe that if there is early consultation and the community knows early and the developer knows early what the community's problems might be, this will reduce the time taken for the process, particularly if you can come to a consensus. If the developer can make the sorts of changes that satisfy the community, you may reduce the need for appeals etc. Not all developers, though, are the same. Some will do this, and we know some developers in the city of Ottawa who will meet early with the communities, who do try to talk to the communities and come up with a consensus-type arrangement. We don't anticipate that we would need to go to intervenor funding very often, but I think the issue is of justice, really, and when it is needed, it should be there.

Mr Villeneuve: The problem I have representing a very rural area—it's not a question but a statement—is that once we have the urban people move into the rural area, then they oppose everything and anything. They get in there and they say, "Well, I want it to stay exactly the

way it is." I would think they might use the process that you've explained to: "Well, I've got my little niche where I want it. Just let everybody else stay away from me." I have some problems with that because our rural municipalities need that additional tax base for the simple reason that there is no money coming from Big Brother at Queen's Park any longer.

Ms Gigantes: I'd like to make a suggestion, because this committee has obviously heard a number of important suggestions around time lines for approvals within the proposed process, to find out whether it might be possible for staff to put together a couple of charts, maybe three, that would describe what's in the bill, what's proposed by people who would like to close up the time lines involved, what's proposed by people such as the current witnesses who are speaking on behalf of community groups which are anxious to make sure there is adequate time for community input at the various stages of the approval process, so that members could have a look at that in some comparative format.

The Chair: I think we've got agreement.

Ms Gigantes: Thank you.

Mr Grandmaitre: Isn't it in the briefing book?

Ms Dewar: We have prepared charts which explain the time frames under the proposed bill.

Ms Gigantes: Yes, if we could have something that would compare the two kinds of amendments that we've been hearing before the committee.

Ms Dewar: Yes.

The Chair: Very well. Any other comments?

Mr Gary Wilson: On the aspect of intervenor funding again, I think Mr Sterling was getting to the issue. One of the problems with it is that it I guess predisposes or sets up a process that will automatically end in OMB hearings simply because people will delay or will just think they'll have their best shot at changes in front of the OMB. So in an attempt to avoid that, there's a possibility for other kinds of dispute resolution.

Ms Kempster: I would certainly be in favour of other types of dispute resolution, but if something does go to the OMB, we would see no problem with the OMB deciding whether to allow intervenor funding to a particular group which has come before it. But we feel the possibility should be there to allow community groups to bring their concerns to the OMB.

It depends how serious an issue is. This new bill takes away the appeal from committee of adjustment. If it's just a simple appeal from committee of adjustment, you may not need too much in the way of a planner or a traffic expert or whatever; it's the local neighbourhood. But if you have a big development and it affects a big neighbourhood, then that large neighbourhood will be able to raise some funds. But planners are expensive. If you want to have a planner or a traffic expert on your side, it's going to be expensive to pay for.

Mr Gary Wilson: And you don't think you can get that hearing before you get to the OMB; you can't have it in the neighbourhood, say, in front of the council, or you can't generate the public interest that would force, let's say, a genuine hearing?

Ms Kempster: Well, sometimes your council is behind you, but then the next level may not be, or the developer appeals it to the OMB or whatever. You may end up at the OMB not because—your council may have believed you and then the developer appeals to the OMB, but you want to be a party because you're interested in the issue.

The Chair: We've run out of time. We thank you, Ms Kempster, for the input you've given to this committee and for the interest you've taken in responding to this bill.

We are about 10 minutes early. We'll recess for 10 minutes.

The committee recessed from 1517 to 1530.

BETTY HILL

The Chair: We welcome Ms Betty Hill. Ms Hill, you have 15 minutes for your presentation. If you want the members to ask you questions, please allow more than five or six minutes, otherwise it'll be very difficult for the members to ask questions.

Mrs Betty Hill: I think what I have to say will take most of the 15 minutes, so we'll do away with the questioning. They will get a copy of it.

First of all, I'd like to introduce myself as Betty Hill. I was the mayor of the township of Goulbourn from 1973 to 1982, and also sat as a regional councillor at that time and also a member of the regional planning committee during that time, so I'm familiar with the planning process, approvals etc.

While there are a number of concerns that I have about Bill 163, due to the time allotted I will touch on only a few of my real concerns. I am certain that others will quite adequately touch on the other points that also upset me.

First, as a former politician I'm concerned about the change to the Municipal Conflict of Interest Act. I feel that is what the name of the act should remain; it should not be changed to the disclosure act. Disclosure should only be necessary where there is in fact a conflict.

The purpose of the act, it says, is "to preserve the integrity and accountability of local government decision-making," which indicates that there is presently integrity and accountability that should be preserved. The new disclosure requirements appear to me to be both an invasion of privacy and most unfair, and I think it will certainly discourage many good candidates from running. I urge you to remove these new requirements from Bill 163.

My next main concern is the amendment to the Planning Act. I'm concerned about the continuous flow of policy documents and amendments to various acts of the provincial Legislature which run totally contrary to the reality of our times. Reality is that we're in the throes of a recession, and have been for several years now. Reality is that thousands of businesses have gone bankrupt; thousands of residents of Ontario and the rest of the country have been laid off jobs, or suffered job loss because of bankruptcies, or suffered wage cutbacks or shorter workweeks. Reality is that these people have less and less spending money to stimulate the economy or

with which to pay ever-increasing taxes.

I ask, what is the government doing about these economic realities? I'm concerned that we're implementing policies that are not going to stimulate the economy or encourage development and improve the approval process. Instead, we continue to keep thousands of bureaucrats on the payroll to continue to write up these policies and amendments, manuals and any other materials they can think of. It took 10 years, for example, to write the wetlands policy alone. That is certainly the type of job security that many unemployed Ontarians would love to have at this time.

We have a massive debt that concerns me, growing even more massive every year, yet the government continues to approve policies and procedures that continue to lengthen the planning approval process, delay approvals, and restrict or even prohibit development.

The directions from the ministers at Queen's Park, I would respectfully suggest, to the bureaucrats should be to come up with policies and ways to reduce the bureaucracy and do away with the excessive layers of the supervisors, department heads etc, who create the paper-chase to justify their existence, and to do away with the overlapping of many departmental responsibilities and approvals.

The provincial departments and agencies actually are the main problem and cause most of the delays in the approval process. This is one of the main weaknesses of the present process. The amendment to subsections 17(30) and 51(42) allows public bodies to ignore the process of making written submissions at public meetings and to come in at the last minute with their objections. These sections exempting public bodies from following the same procedures as the rest of us should be deleted from Bill 163.

If the government is sincere about streamlining the planning process and empowering the municipalities, as the goals of the new bill are, the proper action would be to give the approval process to the regional municipalities, I feel, in cooperation with the area municipalities. These are the people who are directly in contact with each other, these are the people who are familiar with the lands affected, and these are the people most closely associated with the people involved in these development requests, whether it be a major development or merely a severance. We cannot allow the delays which run into years to continue because of the faceless bureaucrats who create an endless paper-chase to justify their existence.

The goals of the planning reforms were the empowering of the municipalities, protecting the environment, and streamlining the planning process. Bill 163 does not meet these identified goals. While the bill appears to empower—appears to empower—the municipalities, there is no clear mandate for municipal staff. The power is limited and can even be taken back by the province at any time.

The Ottawa-Carleton regional municipality was the first regional government created in Ontario and has been in existence for 25 years. The development in this region, I feel, has been done in a responsible manner and, as I said, I had nine years' experience in the process. They

certainly are in keeping with the provincial goals of preserving natural resources and the natural environment. These have been protected and preserved in the goals of the regional official plan, which was first drafted and approved in the early 1970s. We've been working with this plan for 20-some years. The Planning Act allows other regional municipalities in the province additional responsibility, and there is no reason why Ottawa-Carleton cannot be recognized as a responsible planning approval authority for this region. It would certainly help to make the planning process more efficient and speed up the approval process. This would be what I would consider empowering the municipalities and streamlining the planning process.

The land owners in Ottawa-Carleton region have also acted responsibly in preserving these wetlands, for example, animal habitats and other important areas. Now they find they are being punished as a result, we are told, of the loss of the wetlands in southern Ontario; this is written right into the Wetlands policy document. The policy puts a prohibition on any use of their wetlands because they have been designated "significant," whatever that means. It is open to the interpretation of the MNR official to whom you happen to be speaking at the time.

But it was not enough to designate 11,600 hectares, which is some 28,000 acres, in Ottawa-Carleton. These lands include a buffer of 120 metres, or 400 feet, around the wetlands called "adjacent lands." This 120-metre buffer that was added to the wetland designation is again totally unreasonable, unrealistic, and an unfair demand to make of the land owners.

These lands can only be developed if an environmental impact study shows no impact on the wetlands. These studies cost thousands of dollars, with no reimbursement if the study shows there would be no impact. The ministry, MNR, that makes the designation takes no responsibility for whether they are correct or not. The onus is on the land owner to prove that his land is not in fact what the MNR officials say that it is.

This is certainly not in keeping with the justice system in this country, which provides that a person is innocent until they're proven guilty. Most of these land owners are not developers, as implied in the policy document. Many of these land owners bought these lands several years ago with a dream of some day building their retirement home or severing off a lot to give to a son or daughter perhaps as a wedding gift, or to provide a nest egg for their retirement, or to be used for some other passive use or hobby. There is no reason why any of these uses cannot be done.

A septic tank bed requires a very small area on a multiacred piece of land. The policy document lists among the benefits of the wetlands such things as the recharge and discharge of groundwater, maintaining and improving the water quality, trapping sediments, immobilizing some contaminants and nutrients and reducing other contaminants to less damaging compounds.

Septic beds within the 120 metres, placed at a reasonable distance from the wetlands, should present no problem or impact on the wetlands, if we are to believe

these benefits laid out in the policy document.

The wetlands policy states that over three quarters of the original wetlands in southern Ontario have been lost. Because southern Ontario has not been acting in a responsible manner does not mean that all of the rest of the province must be subjected to these unreasonable and unrealistic policies. If these lands were lost, the blame rests with the staff and the officials of the ministries responsible for commenting on approvals. All of you are fully aware that the Planning Act requires that all ministries and agencies are to comment on approvals for any development and if the development did occur, I would lay the blame where it belongs. According to the Planning Act, ministry and agency officials must comment, as I said, on any development. Approvals are usually not given if an unfavourable comment is received or submitted by a government agency; and then, there's always the appeal to the OMB.

1540

The ministries of Environment and Energy and Natural Resources, as well as all other departments and agencies such as the conservation authorities, are responsible for commenting on development applications, and so if we are to believe these statements in these policy documents about the loss of these resources, let us put the blame where it belongs and do something about it at that source.

The solution is not to legislate policies which prohibit any use of the land by the land owner. The Planning Act provides for the control of uses, not prohibition. The solution is not to punish the land owners who have been acting in a responsible manner, the solution is to take away the power from those bungling bureaucrats and empower the municipalities and streamline the planning process.

"Shall be consistent with" are words to be added in to Bill 163 in the Planning Act. These words are to replace the words, "shall have regard to," in section 3 of the Planning Act and it is another example of the control over planning intended to be retained by the province. The goals of empowering municipalities and streamlining the planning process were never intended to be achieved with such inflexible language, and these words should not be put into section 3 of the Planning Act.

The regional government and municipalities should be given the responsibility and the authority to draft their own policies, keeping in mind the goals and the objectives of the provincial government and giving them the flexibility to take into consideration different situations and applications. The effects and applications of these policy documents are far-reaching and include a substantial loss of market value of the property, loss of assessment value and tax revenue to the rural municipalities and with no compensation by the provincial government, either to the land owners or the municipalities.

At a time when the provincial government continues to download costs to the lower tiers of government and cut back on transfer payments, these policies reduce and restrict potential for the rural municipalities to improve their tax base or increase their tax revenue. The lower assessment and provincial tax rebates to owners of wetlands certainly does not help the provincial govern-

ment coffers which are in a monstrous deficit position at this time. The bureaucrats drafting these documents do not live in the real world, they live in a cloistered environment and have no idea of the consequences or the implications of these policies and legislation that they write.

The mapping and the evaluation of the wetlands: There are conflicting statements on the methods of the mapping and the evaluating of the classifications of the wetlands made by MNR staff at public meetings in Ottawa-Carleton. It appears that most of the staff do not understand or even know how or why the lines were drawn on the maps. One official will tell you they were drawn from aerial photographs; another will publicly state the lands were traversed by students hired during the summer to do the task. If the lands were walked without the knowledge and approval of the owner, it was trespassing and this is a further example of the lack of respect for the property owners. The designations were broad brushed across the maps and are not accurate. The onus for the accuracy of the designation should rest on the government to prove that they are correct, not on the owner to disprove.

There has been more than one manual written on the evaluation process—I think there are three of them—and the different wetlands have been evaluated over the past 10 years of the drafting of that document on the basis of whichever manual happened to be used at the time. The officials themselves interpret them differently and cannot even agree on the interpretation. And so the lands are evaluated at the discretion and whim of the particular official on a particular day with no consistency, since the evaluation is not an exact science.

In closing, I would just like to say that the goals for amending the Planning Act were excellent ones: to empower the municipalities and to streamline the planning process. That's what Ontario needs today to get out of this economic mess and to stop business from running to the States.

Unfortunately, this document, Bill 163, does not do that. It is time the government started acting in a responsible manner by putting into place policies and legislation in accordance with these admirable goals and objectives that it espouses. We need simplification of the approval process, not more paperwork and procedures that create delays and additional expense.

These policies and amendments continue to impose more and more restrictions on the powers of the municipalities to deal directly with the land owners and continue to impose more and more unreasonable, even unconscionable, restrictions on the land owner's use of his or her land. As the communist countries move away from the communist control of people's lands, it appears we are moving closer and closer to that kind of dictatorial rule.

It is time the politicians faced up to the reality of the times. Incidentally, since I talked about wetlands, I feel that loosestrife will probably have a bigger impact on wetlands than development ever will over the years and I ask you, sir, what is the provincial government doing about that wicked plant? Thank you.

The Chair: We thank you for taking the time to pass on your ideas and your concerns to this committee.

Mrs Hill: Thank you for allowing me the time. I appreciate it.

Mr Perruzza: I haven't heard the communist perspective for a long time, boy, oh boy.

CATHERINE CULLEY

The Chair: I call on Mrs Catherine Culley.

Mr Sterling: Mr Chair, on a point of order: While Mrs Culley is coming forward, I think it's worthwhile to note that Mrs Hill, after she left being mayor of the township of Goulbourn, went back to school and studied law and has just recently been admitted to the bar of Ontario. I just wanted to congratulate you publicly on your achievement.

Mr Grandmaitre: And also she's a good Liberal, so she is perfect.

Mr Hayes: There is one of those, is there?

The Chair: Mrs Culley, please begin any time you're ready and, again, if you want the members to ask you questions, please leave as much time as you can. If not, there simply won't be any questions, all right? Please begin.

Mrs Catherine Culley: I came to this forum to speak for myself as an individual. I am a private land owner. I was born and raised in Quebec and have always had a deep love of nature. In 1975, I graduated from McGill University with a BSc in environmental biology. I am married and have three children.

In 1989, my husband fulfilled my lifelong dream by agreeing to buy a beautiful piece of land in the country. There we would do some farming, improve and protect a piece of nature, and raise our children in a healthy environment. God isn't making any more land like this, so it is a vanishing commodity. It was likely to be a good investment, but nothing is guaranteed. We were aware of that. However, we were not prepared to have our dream blown out of the water by the government.

I would like to start by defining the roles of citizens. A good citizen has a duty to obey laws, pay taxes, stay informed, vote for government representation, help others and speak out when necessary. I do all of the above, yet I have been victimized by my government through Ontario's recently enacted policy statements which are part of Bill 163. How could this happen?

The role of the government, as I see it, is to develop laws to help society function in an orderly manner, collect and distribute tax money for common services, help its citizens to maintain an adequate or better standard of living, and to maintain a dialogue with citizens providing information and receiving input.

Bill 163 is not a piece of legislation which contributes to these roles. My first objection to it is that it is an omnibus bill trying to do too many things at once. It is also written in such a way that it is truly impossible for citizens to understand. Bureaucrats and politicians may think that people such as myself are too stupid to understand legislation, but the real problem is not lack of intelligence.

The bill was written with reference to clauses in many acts and can only be understood if the old acts are read

side by side with Bill 163. This requires enormous amounts of time which almost no citizen has, including myself, but it is becoming increasingly necessary for some citizens to do so as our trust in government is steadily eroded.

Bill 163 contributes to this erosion of trust. I have heard many recent Ontario government documents described as Orwellian, but this is one of the best examples. Of course, this refers to George Orwell who wrote *Animal Farm* and 1984. In the latter book, there was something called newspeak which was government language meant to confuse citizens. They had slogans such as "freedom is slavery" and "truth is lies."

The goals of Bill 163 as listed by the Ministry of Municipal Affairs have the same flavour. They are as follows: Empowering municipalities, protecting the environment, and streamlining the planning process. Nothing could be further from the truth.

1550

Let us start with public consultation. Section 3 of the Planning Act has been repealed, and subsection (2) has been replaced with: "Before issuing a policy statement, the minister shall confer with such persons or public bodies that the minister considers have an interest in the proposed statement." I don't know what the old subsection (2) said, but clearly the minister never considered land owners, such as myself, to have an interest in the comprehensive set of policy statements. Indeed, some very high-ranking bureaucrats of Municipal Affairs have listed the clients or the stakeholders to me on the telephone and they did not mention private land owners. As a result, these policies have never had public consultation, although Dave Cooke in a November 1992 letter stated that he considered the Sewell commission to be adequate consultation.

Two sentences show cynical disregard for the public. The first is: "It should be made clear to the public in your consultations that these are the commission's goals and policies and have not been endorsed by the government." The second sentence is, "Cabinet, if it desires, can implement policy statements without conducting another extensive consultation." Well, that says it all. You have already heard a great deal about the negative effects of Bill 163 on municipal planning and development, so I will not deal with these issues.

However, I would like to tell you what the policies are doing to individual land owners, namely, property values are in free fall. I suppose I should be grateful that my government has not decided to chop me and my children into little pieces with machetes as they do in some other parts of the world. However, I am not in a very grateful frame of mind right now, because the government decided to steal my equity from me for the greater good of the people of Ontario. I have already written an article called "Errors Make Ontario's Wetlands Policy Unworkable," and I am including a copy of my presentation so you can read it later.

One of the tragic results of this entire package of legislation will be degradation of the environment as we have not hitherto experienced. The architects of this scheme seem to have forgotten that people will generally

do what is in their best interests. If wildlife, trees or a scenic view get in their way of their basic needs for financial survival, these significant features will have to go.

It will start when responsible land owners, such as myself, must dispose of our land for one reason or another at reduced prices caused by draconian land use laws. We know this is a highly mobile society. You must move for employment reasons or you could lose your job. You must dispose of land when it comes the time, and if your prices are down because of government legislation, then you have no recourse, you still must sell. Unscrupulous—

Mr Perruzza: How are you being hurt?

Mr Curling: Let her finish the presentation.

The Chair: We'll get into questions—

Mrs Culley: I will finish and then you can ask.

Unscrupulous absentee speculators with no love of nature or beauty will scoop up such properties and let them grow to weeds etc such as purple loosestrife. In order to evade ANSI designation, destruction of habitat could be accomplished by accidental forest fires. Herons are easily shot as they slowly fly through secluded areas. The chances of hired exterminators being caught are slim, as there is no money for enforcement. When there are no significant features left worth saving, the speculators will be happy and the land will some day be developed due to population pressure. They win; the rest of us lose.

The system is being changed in drastic ways by Bill 163. One of the results will be a need for a massive increase in the budget for MNR. Empire building seems to be the motivation here. All of the environmental impact statements will have to be carefully examined and assessed, resulting in a huge workload to provide employment for an army of bureaucrats and, if it is to be effective, enforcement will have to be beefed up to monstrous levels. There are so many restrictions placed on land owners that we will all become criminals when we cut a tree or move a bit of soil around.

Where will the money come from for all of this? Why don't we spend it on buying significant lands at fair market value so the people of Ontario can legitimately own those parts of the environment that have heritage or wildlife value. Instead, it is being stolen from the few for the benefit of the many. That sounds suspiciously like the communist system. Have you ever noticed what the quality of the environment is like in communist countries? It is shockingly bad. Is that what we want in the people's republic of Ontario? Land stewardship is best carried out by those who have bought and paid for their land and have a stake in its condition. They love their land.

You might well ask yourselves, "Why has she got such a bee in her bonnet?" Let me explain my life since November 15, 1993, when I went to my first information meeting about the wetland policy. I knew that my land was not wetland, but I couldn't convince anyone at MNR of that fact. I was simply told that I was wrong. Because there is no appeal process, I have to convince them, but they don't want to be convinced.

I began to find out as much information as possible and went to meetings. I spent many hours talking on the phone to politicians and bureaucrats. Local levels referred me to provincial offices and those referred me back to regional and municipal levels again. I feel like a ping-pong ball. I have pleaded with everyone to help me to get this wrongful designation off my land, but no one will help. They all say they didn't make the policy so it isn't their fault. They are just following instructions to implement the policy from above. That's what the officials in Nazi Germany said when they were processing the Jews for shipment and extermination, "Just following orders."

Mr Perruzza: Mr Chairman, I'm taking offence to some of this stuff, chopping up babies and this kind of stuff.

Mr Grandmaitre: Why don't you make notes and ask your questions after.

Mr Eddy: I want to hear this.

The Chair: I'd like a bit of order. Mrs Culley, please continue.

Mrs Culley: In the course of correspondence with MNR, in an effort to remove this erroneous designation from my land, I learned just what a bureaucratic nightmare is contained in these policies. Because of vague wording and lack of definitions, government officials can designate land as a provincially significant wetland or area of natural and scientific interest without grounds, and it is incumbent upon the land owner to disprove it in court. There is no appeal process. This means guilty until proven innocent, which is the opposite of our conventional justice system. In my case, MNR was totally unable, in a meeting with the head of planning at Goulbourn township, to produce a shred of documentation to justify the designation of my land. But nobody cares.

Another piece of information I found out is that different pieces of land have been evaluated with different sets of rules. In some places, application of the new rules would result in a significant reduction of designated wetland. How can you treat people differently? It is not equitable. My land was designated in 1984 under version 2, and version 3 came out in March 1993. MNR refuses to re-evaluate my land with version 3 until it gets around to re-evaluating the entire wetland complex, which could be a long time from now subject to the availability of money. This is not top priority; new evaluations and environmental impact studies are.

It has been stated by the minister that the only compensation to be received by land owners is the shared benefit of preservation of their lands. In other words, they used to own all of the benefit, the land owners did, and now the government has stolen it from them and they have been thrown the crumbs. The minister doesn't even mention the tax rebate program which is totally, laughably inadequate and will be cancelled very soon, I am convinced. You can't pay people to obey the law. The rebate was established to encourage conservation which will now be mandatory.

It has also been said and often quoted that land owners needn't be compensated for restrictions on the use of their property by zoning changes because they don't

compensate society when their property gains in value by a rezoning. I call that the big lie. Of course land owners pay back to society when they realize a profit from land value increases. The first way is called the capital gains tax. Other forms are the myriad of crippling development taxes that are being imposed in larger and newer forms every day. Lastly is the economic benefit that is enjoyed by the community through employment etc.

Zoning rules are a form of contract. They control development in certain ways and everyone knows what they can and cannot do. Land values reflect permitted land uses. When someone buys land, the zoning tells them how they may use this land. When these rules change, existing owners must be compensated and any new purchasers buy the land at a new fair market value knowing the new rules.

1600

Someone has to pay for these changes. It should be society because society benefits. Bill 163 and the policy statements impose this cost on existing land owners. I know that the Ontario government is broke, but if these lands are to be preserved for the benefit of the people, then the people have to pay for them. Anything else is pure and utter theft. If you want to steal our land, then say so. Don't perpetuate the big lie.

I have been totally unsuccessful in my efforts as a private citizen, so I have joined some groups of people like myself. The first of these—

Mr Perruzza: Point of order, Mr Chairman: Can we have a clarification? Are we stealing this woman's land? Is the government of Ontario—

Mr Eddy: There will be no interruptions.

Mr Perruzza: —stealing this woman's land? Can we know?

Mr Curling: Why don't you leave if you don't like it?

The Chair: What we need to do is listen to—

Mr Perruzza: No, I want to know. Are we stealing her land?

The Chair: Mrs Culley—

Mrs Culley: Yes.

Interjections.

Mr Perruzza: I am listening. I just can't—

The Chair: I'd like to ask everybody to not respond to that, because if you do, that just carries it on and on. Mr Perruzza, please, we need to hear the deputant. She's about to be finished, I suspect, and there won't be time—

Mr Perruzza: I think her time is up anyway.

The Chair: —I don't think, for questions. So, Mrs Culley, please continue.

Mrs Culley: I have been totally unsuccessful in my efforts as a private citizen, so I have joined some groups of people like myself. The first of these is the Association of Rural Property Owners, from whom you heard this morning. This group has since joined an association called OPERA, the Ontario Property and Environmental Rights Alliance. These groups will be more effective than I have been in gaining justice. You see, there are just too

many people affected by Bill 163. You can't steal that much equity all at once without getting caught. In addition, the rest of the population will be hurt as well through environmental degradation, although it isn't as obvious and it will take them longer to find out.

The government of Ontario cannot go on treating its responsible, taxpaying, law-abiding citizens this way. We have been lied to and ignored. Our rights have been removed. Our private lives have been invaded by rules and regulations far beyond what is necessary. We must spend our time fighting instead of enjoying life and family. If we don't spend hours of time writing reports and speaking to committees such as this, we are ridiculed by bureaucrats for being lazy. We have had enough.

My recommendations are, at the very least, to delay implementation of Bill 163 and hold public consultation. If you must have these policies, then create an appeal process and place the onus on the province to prove that your land is indeed significant. Last, but most important, pay for what you take. Anything else is theft. Thank you very much.

The Chair: Thank you, Mrs Culley. I just want to ask a question. Does staff have any comment to make with respect to anything that the deputant has said that might clarify anything? No? Okay.

Mrs Culley, thank you for coming and we thank you for the information you've provided to this committee.

Mr Eddy: I think we do need—

The Chair: Mr Eddy, no. Mrs Culley, thank you.

Mr Eddy: You have asked the staff a question. I want to ask the staff a question.

The Chair: No, Mr Eddy. There's no time.

Interjections.

The Chair: Ms Culley, thank you very much.

Mr Eddy: —of the wetlands policy and why—

The Chair: Mr Eddy, there is no time for that. When we get around to the next deputant you'll have an opportunity to ask a question.

Mr Eddy: But, sir, you had time to ask it. Why can't I?

Mr Perruzza: Put him in the chair for a while.

Mr Eddy: We'll have the question answered, one way or another.

The Chair: Mr Eddy, we don't have time to ask questions of that nature, because once we do that—we're over schedule as we are and we can't do it.

Mr Eddy: But you invited—

The Chair: We did. I invited the question, there was no response and so we move on.

BIG RIDEAU LAKE ASSOCIATION

The Chair: We call on Big Rideau Lake Association. Welcome to this committee. Please begin any time you're ready.

Mrs Julia Sneyd: Good afternoon. I'm Julia Sneyd, a director of the Big Rideau Lake Association and, as chair of the environment committee, I'm responsible for addressing the environmental concerns of our members and lake users.

The Big Rideau Lake Association represents some 600 families on the largest lake in eastern Ontario. We address the interests of those various users, including permanent and seasonal residents, boaters, campers, fishers and other itinerant travellers on the Rideau Canal. We are mostly concerned with the environmental and planning policies, especially as they relate to lake ecosystems that are mentioned in this bill.

The Big Rideau Lake Association has monitored the Sewell commission from the outset. We have been a member of the lake focus study group, submitted written briefs and appeared at one hearing. We have a close working relationship with the Rideau Valley Conservation Authority, Mutual Associations for the Protection of Lake Environments Inc, Environment Canada Parks, the Ministry of Natural Resources, the Ministry of Environment and Energy, and we have also sponsored numerous Environmental Youth Corps projects and environmental partners fund projects.

The BRLA has communicated with the Ministry of Municipal Affairs during its consultation process as well. We are delighted to be able to address this committee during its final stages of public consultation. The people who have been reporting directly to the Sewell commission on this bill are Bob Sneyd and Frank Oakes and they will present our brief to you today.

Mr Bob Sneyd: Further to that introduction, I believe you have a single-page, printed-on-both-sides outline of our position as it stands at the moment. May I just underline the fact that we have appreciated involvement at various stages of this process over the years and it's one that we have followed very closely, especially from the environmental side of it.

I'd like just to address each of the four points in this brief and comment briefly on them. If you have any questions back on that, I'd certainly be happy to enter whatever discussion the committee might feel. Following that, Frank Oakes has a couple of additional comments to make.

The first point in particular looks at the recommendation 50 of the Sewell commission. We feel very strongly, from our reading of the study, that it is essential in this day and age for enlightened environmental guidelines, and to move us on into the next century, to look at ecosystems on a watershed basis. We would very strongly recommend that the legislation be amended such that watershed planning is provided in the legislation and then the consequent details in the regs as appropriate. But from our reading, planning on a watershed basis has not been drawn particular attention to and we would very strongly urge the committee that it be so.

We're not trying to otherwise improve on the rationale or the terminology than what is to be found in recommendation 50, pages 31 and 32 in the report, *New Planning for Ontario*.

On that particular point, I believe that the watershed planning is crucial because it fulfils best and speaks best to goals A(1), (2) and (3), in the Municipal Affairs ministry's documents that were indicated last December 1993 and again in the spring, May 1994, and it's quite consistent with the provincial policy statements too.

On the flip side of the page, the second point, by our reading of the bill it seems as if there has been some de-emphasis of the application of provincial planning policy specifying only the Ministry of Municipal Affairs, and our recommendation is that the legislation specifically refer to: that all ministries advising on planning matters would come under specifically the legislation, under the aegis as per the recommendation number 4 in *New Planning for Ontario*.

The third point we note with some pleasure and support the intention of this legislation to put in the hands of municipalities some regulation over site aspects such as landfill and so on, and we are really not only curious but somewhat disturbed that the legislation has pulled out the provision with respect to tree cover and vegetation. In lake country, the particular importance of this, if I can speak to point 3 a little, is that the critical zone is the 30 feet along any watercourse on the shorelines. I think it's quite consistent with the spirit of the legislation as well as the commission's report that at least that immediate shoreline zone comes under the scrutiny of the municipality in respect of site alterations. It's absolutely crucial. There have been a number of very recent studies done by people with expertise.

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We could reference the Rideau Lake study by Michael Michalski, the studies of the Mutual Associations for the Protection of Lake Environments; they all point very specifically to the importance of protecting shoreline zone areas and that's in the spirit of the environmental protection and conservation. We feel that point is very important and does not unduly remove from any land owner the useful exercise of private property rights.

The fourth and final point in this aspect of the brief relates to the concern with respect to the legislation's omission of the Sewell commission's recommendations with respect to septic system scrutinies and inspections. This can't, of course, be done overnight, but I think legislation should point the benchmarks and the targets for implementing recommendation 91 of the Sewell commission. We feel the legislation is to some degree gutting some of the substantive and important provisions of the commission which, if we're going to move into the next century with any degree of security from the point of view of shoreline, and especially in fragile zones, shoreline contamination, is very necessary.

Again, we realize that's a broadly based problem province-wide and we are speaking particularly from lake country's point of view. But at the same time, other studies in the province, inland areas with septic systems—the Waterloo study, for example, and the impact on groundwater—indicate the need for checking septic systems province-wide, and we support that provision of the Sewell commission very strongly.

We would further add, if the committee is looking for some ways to further improve this legislation, which we presume you are—the importance at this point of getting with the 21st century, from the point of view of thinking beyond septic systems—that there are alternate technologies. They're now proven technologies. This legislation does not speak to them, and we realize at the same time

that the Sewell commission, frankly, perhaps could have spoken more forcibly than it did. I think legislation is a public document in I think the people's sense. I'm not sure from the bureaucratic side, but from the people's sense we've got to I think support technologies that look ahead and not drag behind with something from the last century.

The regulations presently we feel are not up to date, even with technology, as they exist. We think the legislation should push us all to consider and implement alternate technologies that have much less input environmentally on the ground and surface waters of our province. So we make that additional point.

I'd like for a moment to turn it over to Frank Oakes for a couple of additional comments.

Mr Frank Oakes: First of all, I'd like to address you on item 32. The commission recommended that legislation set out what items must be included in an official plan. Subsection 42(1) of the bill proposes that official plan content be set out in the regulations. That content, I would think at this stage, must be fairly well known. I think it's been suggested by ministry staff that the content of that could be treated as more flexible. It could be changed from time to time, but if it were in the regs rather than the statute. But I think that for purposes of certainty and for the purposes of voiding reference to the regs, if it wasn't too extensive it could be set out in the legislation.

But if it is to be set out in the regs, I was wondering if the bill could be amended so that proposed regulations of that nature would be advertised and that we wouldn't be facing a *fait accompli*, that is, that the interested parties would have sufficient notice, and perhaps the bill could be amended to suggest or to make mandatory that regulations to be made under the statute be advertised in advance, however advertisements are to be placed, so that the interested parties would have an opportunity to study them and have some input.

I wanted to make one point on the commission's recommendation concerning planning on a watershed basis. The bill makes no reference to planning on a watershed basis but, again, ministry staff have said that they intend to include some proposals on this matter in the regulations.

I again am suggesting that if planning on a watershed basis is to be dealt with in the regs, it be mandatory that the statute clearly set out what regulations are to be made with respect to this matter, that they can't just make the regulations, that they'd have to be clearly authorized under the legislation.

One further point regarding rights of appeal: To help ensure better decision-making at the local level, the bill proposes than an appeal body need not consider the appeal of a person who did not file an objection in advance of a council decision. This seems to lack any sort of reasoning, in my view. In these cases there would be no automatic right of appeal. This is found in a number of places in the legislation, including section 10 and section 28.

This is an issue that the commission never appeared to

have considered. If enacted into law, it would mean that any interested parties would have to file an objection to every decision which might be made that would affect them in the fear that council might by chance get it wrong. Otherwise, the citizens would have no sure way of having the decision reviewed. Consideration should be given to the wisdom of this provision and I urge you to do so.

Mr Sneyd: The committee also has in front of it two additional documents, and it wasn't our intention or expectation that you would have time to read them. These are simply by way of appendices, some of the earlier submissions that we made.

That concludes our comments. We'd be happy to comment further or discuss, as the committee wishes.

Mr Villeneuve: Thank you for making your presentation on behalf of the Big Rideau Lake Association. The monitoring of septic tanks, are you speaking of all septic systems in rural Ontario, farms and rural homes, or simply those that are in so-called areas around lakes and watercourses?

Mr Sneyd: My understanding is that the Sewell commission is recommending it province-wide, and I realize that's a gigantic job, but ideally yes, if we're looking for a fallback position, it's lake country that's most sensitive. I'm not sure how that would fly legally, in the discriminatory and all the rest of it but, let's face it, all soils, all slopes and shoreline lands are not the same and I think we have to be able to define those areas that are sensitive and have the legislation regulations appropriate to the type of landscape we're dealing with. Our main concern is, of course, lake country.

Mr Villeneuve: That's being I think considerably more realistic and the possibility of that is very real. I would have great difficulty in asking every farm home and every rural home, which is nowhere close to a body of water, to have their septic systems monitored every seven years or whatever.

Secondly, you recommend here, and I thought that was already law, that no phosphate cleansers or soaps be sold. I believe this is in your presentation on page—

Mr Sneyd: That's one of the appendices, I think, that you're referring to.

Mr Villeneuve: Yes. Is that not the case now?

Mr Sneyd: I could stand to be corrected, but I don't think all soaps and cleaners that are sold are what you'd call environmentally clean in every respect. We have a program locally where we stimulate the sales of really clean products in that way and are readily available even in the supermarkets. I think there are a lots of polluting cleaners that are still available.

1620

Mr Villeneuve: As you know, phosphorous is a very important element of plant food, P_2O_5 , and it would make a lot of farmers very nervous if all of a sudden the next step goes to having no phosphorus fertilizers. That would be a very, very major trigger for the agricultural community. You've no thoughts in that direction, have you?

Mr Sneyd: We weren't addressing the question—you mean in fertilizers? No. We have a concern with respect

to agricultural drainage into our water courses, but we're not speaking here to that issue. But I'm not aware that it's, for example, illegal to sell soaps and cleaners that aren't totally phosphate-free and entirely environmentally clean from that point of view, and that's the issue we're speaking to here.

Mr Villeneuve: Does the Premier belong to your association?

Mr Sneyd: I didn't check whether he's paid his dues this year or not, but I'll let you know if we find him in arrears or in any way delinquent.

Ms Gigantes: I know that you, as residents of the Big Rideau Lake area, have gone through years of trying to take action to make sure that the environment of Big Rideau Lake was improved.

I'd like to get a sense from you, for committee members particularly who don't come from this area, of what the history of that struggle has been, if you could give us a little capsule.

Mr Sneyd: In five hours or less. I think that the association from its inception before the first war, and if you look at our articles as they were renewed through the years, has always been primarily an environmental organization, in the days before it was fashionable, we might say, the days before we had a high profile.

The most intensive work of the association has been in the last eight or nine years, commensurate to some degree with the general public awareness of environmental issues but sharpened I think greatly by the exponential focus in terms of development and the use of the waterways, use in so many different ways—seasonal and permanent residents, shoreline, itinerant boaters, hundreds and hundreds on the weekends and so on, for whatever purpose—because the lake is very open in terms of access, which is fine, but the pressures are very great. The pressures are also very great from the point of view of boats through the canal system, as you know. So I think that those have been the reasons why the emphasis in recent years has been more complex.

Do you want me to make some reference to the kinds of programs?

Ms Gigantes: I wonder if you could comment on the importance of septic drainage as one of the issues you've confronted.

Mr Sneyd: This has been an area of particular attention in the last five years. We've got a couple of programs working on that. All the studies that have been done, professional studies, indicate of course that phosphorus is the number one enemy of surface waters from the point of view of a pollutant.

We have supported and worked with the various studies to try to mitigate the impact of septic by supporting increasing setbacks and so on. But you can appreciate that on a lake that is well established, like many other lakes in the province, there are many old systems, and while new development might be successfully addressed, our concern is with existing users and their systems. How do you retrofit effectively and cost-effectively for that?

Frankly, one of the major pushes we've had is in looking at alternate technologies. I spoke to that briefly.

They are far more gentle on the environment and on the ground cover. There are areas of every lake near the Shield country, as you know, where drainage is poor and the soils are very shallow. They're not like deep soils, where in a lot of farm cases it's not a problem. So it's a supersensitive area.

We had programs over the last five or six years averaging in the neighbourhood of, if you want to put it in dollar terms, \$50,000 a year in terms of local sources and both levels of government supporting programs. So we have literally volumes of data and studies over those five or six years that have been well validated and supported by the Ministry of Natural Resources in particular but also the Ministry of Environment personnel.

In that sense, I think we feel confident that the work of the many scores of people who have worked over the last eight or nine years has borne fruit. We're not here just because we'd like to delay your proceedings in any way. We're serious about the suggestions we're making. We feel they are ones that should be addressed at the political level, and that's where it is now, obviously, on the verge of passing this legislation.

I think we're representative of public view, reasonably, in terms of the sensitive lake environments. Our membership is about 600 families, but the lake users would be in the neighbourhood of about 2,000 to 3,000 families per year.

Ms Gigantes: Could I ask—

The Chair: Thank you.

Ms Gigantes: No?

The Chair: It would have to be brief and so would the answer.

Ms Gigantes: Very tiny. Would the insertion of reference to the water systems—I've forgotten the exact term being used—watersheds in section 5, the top of page 4 under clause (a), address your concern?

Mr Sneyd: Page?

Ms Gigantes: Page 4, the top of page 4. It's section 5 of the bill, clause (a). It says, "the protection of ecological systems..." I would assume that includes watersheds. But the specific reference there, would that meet your needs?

Mr Sneyd: Is that referring to the planning side of things?

Ms Gigantes: Yes.

Mr Sneyd: Yes, it is. I think the watershed concept is well enough understood that if that was added there, yes, that would address it.

Ms Gigantes: One very tiny point, if I could, is it not the case that whatever regulations are developed under this legislation, they will be advertised through the computer network developed under the Environmental Bill of Rights?

Ms Dewar: The regulations that are being prepared by staff are being put before an implementation advisory task force comprised of a number of different stakeholders, a technical committee and a rural working group, and there is very wide consultation on the preparation of those regulations.

Ms Gigantes: So it won't be on the monitors under the Environmental Bill of Rights because it's not out of the Ministry of Environment and Energy, is that right?

Ms Dewar: Norma can respond to that.

Ms Forrest: My understanding is that the Environmental Bill of Rights has a schedule for ministries being subject to it. So it depends, I guess, on the timing of when the Minister of Municipal Affairs—

Ms Gigantes: Then in fact this will—

The Chair: Ms Gigantes, we're going over time, I'm sorry. We want to thank the Big Rideau Lake Association for coming and for sharing your ideas and suggestions with us.

Mr Sneyd: Good luck as you finish this off.

The Chair: Mr Hayes has a comment with respect to the previous deputant, Mrs Culley, and the concerns she's raised. Mr Hayes, go ahead.

Mr Eddy: I have one too.

Mr Hayes: It's not a supplementary, and it's not a comment on Mrs Culley's general comments that she has made here, but our understanding is that Mrs Culley was looking for a re-evaluation of her property, or the wetlands.

What I have to say here now, to bring this to a head, is that of course the members don't know the specifics of it and I don't think we're going to decide in this committee what class of wetland it is, so what we would be prepared to do is set up a meeting between Mrs Culley and the Ministry of Natural Resources to have a site visit and to look at evaluating this particular piece of property, and hopefully we can come to a satisfactory conclusion on that.

1630

Mr Perruzza: Point of order.

The Chair: But there's no procedure—

Mr Perruzza: Yes, but this is something that unnerves me, when someone can come before this committee, talk about butchering babies—

The Chair: Mr Perruzza, I'm sorry, I know—

Mr Perruzza: —and telling the government—

The Chair: Mr Perruzza, let me make a point.

Mr Perruzza: —that there's thievery and all the rest of it—

The Chair: Mr Perruzza, it won't help.

Mr Perruzza: —and then get special attention in this way. I say there are hundreds of thousands of other people out there who require the same kind of special attention.

The Chair: Mr Perruzza, I understand what you're getting at. Mr Eddy would also like to raise questions. We didn't have time to ask questions of the deputant. I think this is the best that can come out of staff by way of how we deal with the question that she has raised, all right?

Mr Perruzza: What question? There was no question. It was just innuendo.

The Chair: All right, we're going to move on.

OTTAWA FIELD NATURALISTS

The Chair: We invite the Ottawa Field Naturalists. Mrs Heidi Klein, welcome to the committee.

Mrs Heidi Klein: I assume you've got the handout in front of you. Fair enough. I just want to say it's a draft at the moment. I haven't had a chance to pass it by the Ottawa Field Naturalists conservation committee. That will happen on Tuesday at our next meeting, our first meeting of the season. All set?

The Chair: Yes.

Mrs Klein: I also would like to know how many of these issues have already been raised, because I will be willing or glad to move on to some other ones that are not on this piece of paper.

The Chair: I would recommend that you touch on them. Many issues have been touched on by different people, and some in different ways.

Mrs Klein: All right, fair enough. It's your time. First of all is the purpose section of the act. As my first line says, my comments will be in line with those of the Federation of Ontario Naturalists. We don't feel that the purpose section adequately supports the natural environment, and I've proposed a rewording of the one statement, "to promote economic development while maintaining a healthy natural environment within the policy and by the means provided under this act."

However, I have two other questions that are raised by the purpose section. It's not clear to me when you say "within the policy" in the purpose section exactly what policy you're referring to; I'm assuming the different provincial policies, but I find that statement very confusing. I would also like to get some interpretation as to what happens in the absence of provincial policy should additional policies need to be developed other than the ones that you've provided in your reform package.

The next item is dealing with provincial interest, in section 2. It is commendable that they "shall have regard to" provincial matters, but again it's not readily apparent what happens in the absence of policies if they're only going to be restricted to areas where policies have been developed or what happens in the absence of provincial policies. I feel that provincial ministries will need to provide additional support or advice to planners. It's too easy to just walk away, saying funds are insufficient to do additional research. It doesn't strike me that there is any sort of interim mechanism, as you're devolving responsibilities to municipal governments to take on this additional planning role, where they're making decisions.

The next item has to do with being contacted with regard to developing policy statements and wanting to know how this will take place. How do you get put on a list? Is there going to be a public registry? Why was this sort of format being proposed, which seems awfully restricted compared to the way policies are developed now? I'm looking for some clarification on that one.

The next item is subsection 3(5), decisions to be consistent with policy statements. I would like to see that this not only apply to the Minister of Municipal Affairs but all the crown. I do understand from the interpretation document that the Ministry of Municipal Affairs will be

working closely with the other ministries, but that's no guarantee that the other ministries will take on the same sort of policy statements.

The final comment I have, at least with respect to the presentation in front of you, has to do with the whole contents or notions of the official plan. While I'm glad to see there's some integration with the environmental assessment process proposed, I personally find statement 16 very confusing, and I'm unable to put my hands on the exact regulation or regulatory statement to which it refers under which municipalities will be able to put in place this alternate planning process.

So I'm instead proposing that I would rather see a more clear-cut, minimal planning process put into the official plan itself which takes on some of the responsibilities that the environmental assessment process already has but doesn't necessarily mean it's an environmental assessment process, but it's already built in. So if you look at the Environmental Assessment Act right now, it already talks about reviewing alternatives and describing the environment, in addition to what you're already proposing in setting goals, objectives and policies in section 16.

Now for items you don't have in front of you, I'm curious about the whole notion of "vexatious" and how this will be determined. Will the body determining if a submission is vexatious go back to the purposes section of this act? What kind of guidance will they have in making this decision?

I'm also curious about the policy document that you have in front of you. Throughout it, it refers to the determination of significance. How will this be determined? Most of this procedure looks like it's devolving decision-making powers down to the municipalities. Are they still going to be relying on provincial ministries for determining significance? How will this be made and where's the consistency going to be across the province?

I'm also interested—again referring back to the comprehensive set of policy statements, throughout it there's also terminology with respect to adverse environmental effects, yet you only require an environmental impact statement for goal number 1. I'm curious, under, say, goal number 3, how again this will be determined. I would recommend that the requirement for environmental impact statements be applied to all the other goals wherever you require them to determine if something is adverse and has an adverse environmental effect.

Referring to your Understanding Ontario's Planning Reform document, which I'm assuming is meant to be an interpretation of the act, on page 9 I have a few questions, again dealing with the area of environmental assessment. I've already raised the one. It's not clear to me under which regulation-making statement municipalities will be able to go into this alternative planning process.

I also, on reviewing the act, could not find where the whole idea of monitoring provisions comes up. You're offering it as an interpretation, but I don't know where it's specifically referenced in the act or if that comes up under the whole notion of an alternative planning process and the municipalities will then say that an alternative is

to also monitor for environmental impacts on individual EISs. But, personally, the interpretation document does not seem consistent with what's being proposed in the act, and I would say it's somewhat misleading unless you can tell me where in the act this comes up.

The final point I want to raise, going back to your comprehensive set of policy statements document, deals with points 3 and 4; I've already partially touched on them. Again, where is information for planning jurisdictions coming from in these times of fiscal restraints? It again strikes me that you're devolving powers to municipalities but they're not ready to take on these responsibilities, let alone do some of the additional research that they'll need to do in terms of the environment, in terms of economic support, what have you. I would just like to get some clarification on this and how you propose to do this or what kind of bridging mechanism you'll be putting in place. That's it.

1640

The Acting Chair (Mr Alvin Curling): Mrs Klein, there is a list of questions that you have written.

Mrs Klein: Yes.

The Acting Chair: If the staff could have it, then they could really respond to you in a more detailed way. But, however, they'll attempt to answer some.

Mrs Klein: That's fair enough. I will be providing a written response once I meet with the rest of the Ottawa Field Naturalists on Tuesday.

The Acting Chair: Okay. Thanks very much. Are you finished with your presentation?

Mrs Klein: Sure.

The Acting Chair: Do you want to give a response now?

Ms Gigantes: I think it would be helpful to ask staff to make a preliminary response, if we could.

Ms Dewar: I'm Diana Dewar from Municipal Affairs, and beside me are Norma Forrest and Pat Boeckner. May I suggest that you repeat the question and we'll respond to the question and obtain any follow-up information for each question.

Mrs Klein: Okay, fair enough. What's your particular expertise—all the questions I've listed or with what particular area?

Ms Dewar: The questions that you would like us to answer.

Mr Grandmaitre: Mr Chair, maybe I could be of some help. Section 1.1 for instance, I think the question was "'shall have regard to...(a) the protection of ecological systems, including natural areas, features and functions.' I would suggest that 1.1(a) be reworded as follows: 'to promote economic development....'" Maybe I can give you the question.

Ms Dewar: I've had that before. There are a number on this page and then there were a number of additional questions.

The Acting Chair: I missed them. Can we do it this way, because there are a number of questions you have raised and it may take a considerable amount of time. I want to leave some time for the members to ask some

questions too. You said you were going to give us a list of them and they could be responded to in writing, but there are some that they may address right now. We're going to attempt to do that.

Ms Gigantes: The first one is, what is the policy in section 4?

Mrs Klein: What's being referred to?

Ms Gigantes: Yes. In the statement "to promote sustainable economic development while maintaining a healthy natural environment within the policy," legally how is that read? Is that the policy statements?

Ms Dewar: That refers to the comprehensive policy statements.

Ms Gigantes: Why doesn't it say that then?

Ms Dewar: The legislation, the way it's drafted, I believe refers to the policy under this act, "...the policy and by the means provided under this act," which refers to the comprehensive policy.

Ms Gigantes: So it's by definition.

The Acting Chair: Next?

Mrs Klein: The next question was, what happens in the absence of policy now that you have this purposes statement?

Ms Gigantes: Could you give us an example?

Mrs Klein: Not at the moment, but I'm sure there are always occasions when policies have to be developed because this may not be adequate enough. You might decide to develop a policy on wildlife corridors instead of the general policy on natural environment you have right now. In southwestern Ontario, you need a specific policy for wildlife corridors. You've got a general statement now about the natural environment, so what happens if more and more of a focus needs to be done just on wildlife corridors? People are clamouring for a policy. What happens in an issue area where policy hasn't been developed? It's not the best example, but—

Ms Forrest: I'm from the Ministry of Municipal Affairs. It's not intended that the policy statements will be static over time. If new issues arise, there is provision under section 3 of the Planning Act for additional policy statements to be issued. Another aspect of planning reform is area-specific policy statements which may be developed for specific areas of the province in response to specific issues.

Mrs Klein: But that may take a while. Most policies take a while, so they just keep planning the way they've always planned. Well, perhaps going back to the whole idea of section 3 and additional policies being developed, the whole notion of how public bodies are going to be contacted, that seems a very narrow way of developing policy statements. Are you going to put a mechanism in place where there's like a registration, where groups like the Ottawa Field Naturalists can automatically be contacted every time there's consideration for a policy statement? How do we find out one is being proposed?

Ms Forrest: I'll answer that question. I think the process for the development of this set of policy statements may give you an indication of the process that's followed. It was a two-year process for the development

of the policy statements. There were 10,000 copies of the policies circulated. There was a subsequent three-month circulation period where we met with 60 stakeholder groups and received 600-and-something comments. So we did receive information from a lot of different groups in the development of these policy statements. And the implementation task force has also been involved in developing implementation guidelines.

Mrs Klein: So that's how I'm supposed to interpret "The Minister shall confer with such persons or public bodies that the Minister considers have an interest in the proposed statement"?

Ms Forrest: Yes.

Ms Gigantes: Could I also raise the question, Norma: Once MMA comes onto the environmental registry, that will be another method of people who have an environmental interest learning about what's happening in terms of those policies. Do we have a date on that? Do you happen to know it offhand?

Ms Forrest: We'll find out the date that MMA will be covered by the environmental registry and we'll let you know.

Mrs Klein: Okay, thanks. What about the whole notion of devolving decision-making powers to municipalities? What sort of interim support mechanisms are you going to have in place? What roles will the ministry continue to have or what will it be giving up in terms of decision-making?

Ms Dewar: You asked what are we going to be doing while we're devolving responsibilities to municipalities?

Mrs Klein: Yes.

Ms Dewar: Certainly there's a recognition on the part of the ministry staff that municipalities will in many cases require a lot of training and support and advice and we are certainly concentrating a lot of effort on that during the establishment of the new planning process.

Ms Klein: So you're preparing training programs right now?

Ms Dewar: Yes, we are.

The Acting Chair: What I'm going to allow now is about two minutes for each side to ask questions, because you asked earlier on if there were any questions, and I've allowed for clarification. I was going to start with the government side if they had a question.

Ms Gigantes: I found it very interesting.

The Acting Chair: I also find it very interesting. I just want to give the right to those to rotate and get their questions in. Do you have any questions?

Ms Gigantes: My questions would be, what are the answers to the questions that we can get right here?

Mr Grandmaître: Those are my questions too.

Mr Villeneuve: Just a couple of quick comments and maybe one question. Thank you for your presentation on behalf of the Ottawa Field Naturalists.

The Acting Chair: Just a second—

Mr Grandmaître: No, Mr Chair, I just told you that I'm quite satisfied listening to the answers given by staff. I'm satisfied.

Mr Villeneuve: Just to put your mind at ease, the municipalities are seeing this as taking away a lot of their autonomy and following a very rigid set of guidelines and rules as set out by the province. So your concern regarding how the province monitors that interim period I think is pretty well looked after within 163 in that the municipalities feel that they have had their autonomy and flexibility pretty well removed with the guidelines that are quite rigid as set out in 163.

1650

When you speak of a register, are you speaking of a register whereby your organization, Ottawa Field Naturalists, would be registered lobbyists that would possibly go to the Environmental Commissioner if you had a problem? And we do now have an Environmental Commissioner that will be coordinating 14 ministries within the umbrella of protecting not only the environment but the concerns of people. Are you speaking of a registered lobby group that you might be?

Mrs Klein: No.

Mr Villeneuve: You're not speaking of that.

Mrs Klein: No. When I read subsections 3(2) and (3) that are being repealed—this is point number 6 on page 4 of the bill—when I read the statement, "...the minister shall confer with such persons or public bodies that the minister considers have an interest in the proposed statement," I read that as a very narrow interpretation, so how would we find out every time something is being proposed? Will there be a public registry saying that the Ottawa Field Naturalists has an interest in being contacted when something like this comes up?

Mr Villeneuve: So you don't want to register as a lobby group, but you want to be recognized as a concerned group regarding the environment in your particular field of interest?

Mrs Klein: That's correct, but from what I understand from the staff, the development of policy statements is really not going to change all that much and perhaps what I need to do is broaden my interpretation of this statement instead of narrowing it. Is that correct?

Ms Forrest: Yes. We would consult with all the parties that we felt had an interest, and the way it's being done right now is that we ask affected ministries to give us a list of those people because they have a pretty good idea. There are also a lot of umbrella groups that are able to give us lists of people who may have an interest; for example, the Ontario Environmental Network.

Mrs Klein: So it's more or less status quo with what's happening and that my interpretation of this section was just too narrow because of the way it was worded.

Mr White: I want to congratulate you on your presentation and the marvellous way in which you've been able to turn the process on its head and ask the committee questions. I understand from your presentation, though, that contrary to what my friend across the way was suggesting, you don't have any strong objections to provincial environmental policies offering guidance to municipalities in their development process, do you?

Mr Villeneuve: "Guidance" is a pretty flexible word.

Mrs Klein: No, that's correct. If the provincial government was going to step away from and not be the final arbitrator in a lot of this, then these policy statements, I feel, are absolutely necessary to provide some consistency across the province. I may not be happy with the exact wording of some of the policy statements, and they probably could use some improvement—you'll get that in a more detailed letter later on—but if the government is stepping away from it, then yes, I believe the policy statements are absolutely essential.

Mr White: Thank you very much.

Ms Gigantes: Could I ask staff to take a look at subsection 6(2), which reads, "Before issuing a policy statement, the minister shall..."? Why would we not have a direct reference there to the obligations under the Environmental Bill of Rights, because I think that that would clarify for concerned members of the public, at least on environmental matters, matters that touch directly on the environment and in fact there was public notice being given in a very broad-band kind of way.

Ms Dewar: I think that we should probably raise that with our solicitors because there may be a legislative reason why that doesn't need to be incorporated into this bill. We will raise it.

Ms Gigantes: But it keeps getting raised by everybody.

Ms Dewar: Yes, we will raise it.

Ms Gigantes: At least let's put in a footnote saying we don't have to have it in here because it's in blah blah blah—

Ms Dewar: It's in another act.

Ms Gigantes: —and that's what the lawyers say.

Mr Eddy: A very short question. Thank you for your presentation. Are you familiar with the Sewell report and the recommendations in it?

Mrs Klein: Yes, I am.

Mr Eddy: Many deputants have come forward saying that more of Sewell's recommendations should be included in Bill 163, and I just wondered if you had a comment on that.

Mrs Klein: I agree.

Mr Eddy: Do you?

Mrs Klein: Yes.

Mr Eddy: We're getting that over and over and I just wondered how you felt about it.

Mrs Klein: No, I would like to see more of the Sewell recommendations in there.

Ms Gigantes: Have you read it, Ron?

Mr Eddy: I've read the recommendations. I haven't read all of the background on it, and maybe I'd better do that.

Ms Gigantes: I think you'd better before you go pressing ahead on this.

Mr Eddy: No, I just wondered about the comments of the presenter because we've been getting it so often from many people that I feel that I'm reviewing Sewell as we go along almost.

The Acting Chair: Thank you. You have a few more

minutes if you want to make any comments.

Mrs Klein: No. I would like to get one question answered, absolutely. I deal with legislation on a daily basis, and for the life of me, I could not find by which regulation-making authority the municipalities can create a bylaw so they can do the alternative planning so they have a quasi-impact-assessment process in place. I've read it in the old Planning Act and I've read it in the revised here and I can't figure out which statement it is.

Ms Dewar: Sixteen.

Mrs Klein: Well, 16.1 is where it says they can do that but it says "by regulation," and I want to know which regulation-making statement it is.

Ms Dewar: We will look that up and get back to you.

Mrs Klein: Okay.

Mrs Dewar: I believe 16.1 gives the authority.

Mrs Klein: No, that I understand. It's a very confusing statement and it took about five people reading it to agree that that is the statement, but we couldn't figure out which regulation-making authority it was. It's section 74, as I recall.

Ms Dewar: We'll find the section and get back to you.

Mr Eddy: Well, if no one is speaking now—

The Acting Chair: No, we just thought—

Mr Eddy: All I was going to ask, if you'd permit me: When the explanation is found would we be entitled to see it or am I excluded from seeing it?

Mr Villeneuve: You're just a troublemaker.

Ms Gigantes: You have time for one more quick question.

Mrs Klein: No, what I'll say is that I will summarize—

The Acting Chair: We've got a response for you now.

Mrs Klein: Oh, good. What page?

Ms Dewar: I believe it's found on page 58 of the bill.

Mrs Klein: That's where I was looking.

Ms Dewar: Clause 42(1)(f), "prescribing the processes to be followed and the materials to be developed under section 16.1."

Mrs Klein: So that this is a regulation-making section, then?

Ms Dewar: Yes, it is.

Mrs Klein: Because I was looking at 70.2 and looking through it where it says, "The Lieutenant Governor in Council may, by regulation...."

Ms Dewar: Does that answer your question?

Mrs Klein: Yes, it does. How do 42 and 43 vary then?

Ms Dewar: Section 42 is the general regulation powers and section 43 deals with the establishment of a development permit system.

The Acting Chair: That will be the last question in response, because we've run out of time and, as the staff stated, they'll get back to you with all the answers, and you made a list. I want to thank you very much for your

presentation. I'm sure it was quite worthwhile for the committee to have heard you.

1700

VICTORIA MASON

The Acting Chair: May I call, then, Ms Victoria Mason. While you're coming to the table, Ms Mason, you have 15 minutes to make the presentation and you may use the entire time to make your presentation but you can also leave some time for questions if you so wish.

Ms Victoria Mason: Thank you. I don't intend to go step by step into your legislation but I have some strong views on what is happening with our legislation in Toronto and how the taxpayers are being treated. I've been attending meetings for many years at regional Nepean and I have a point of view that you people don't have.

So if I may, I'll start with the great American Benjamin Franklin. I'm a great fan of his. He said that in free governments, the rulers are the servants and the people are their superiors and sovereigns. Somehow, we've reversed it. Through the years, politicians and governments, notably in our country, have eroded and reversed the right, to the point where the people are the servants and the rulers are the superiors and sovereigns.

Here we are again today looking at the government attempting to grant more power to the politicians, our servants. The more power politicians have, the less the people have. The pendulum has swung too far. On one hand you have the local government disclosure of interest act and you say its purpose is to "preserve the integrity and accountability of local government decision-making"; on the other hand, the Municipal Act and the Planning Act, which give more power to the local government to have in camera meetings. These statutes are contradictions of each other.

If a government is to preserve the integrity and accountability of local government decision-making and there is nothing to hide, why is there a need for in camera meetings and the secrecy which surrounds them? We've had a deluge of them. Secrecy or in camera meetings are being held to avoid disclosure of complete and full information to the paying taxpayers, who are deliberately kept in the dark on issues which they're paying for.

As an example, it has become commonplace to award huge severance packages to terminated staff. I'm not sure of the real definition of "terminated." Should it mean fired, those who left voluntarily, or both? No explanation is given anywhere. Property purchases are decided in camera etc. Why do we have elected politicians if they conduct their business in secret? And to think the provincial government is intending to give these politicians more power with the Planning Act.

I certainly believe that the power they now have is being abused, or else why would a common taxpayer be verbally abused when appearing before a committee, while the developers, consultants, so-called experts and certain other special-interest groups get warmly welcomed with open arms and given all the time they need to lobby the committees? I've seen it happen time and again.

There is no justice or fair play in giving more power to politicians, who only say "Yes" and "Carried" on agenda items, like trained seals, and do not deserve more power.

I can give many examples of how local government and politicians run roughshod over taxpayers who dare to express an opinion which does not agree with theirs. We are overcome with politicians and bureaucrats who hire consultants, give themselves severance packages, mileage allowances, parking privileges and any other perks they can dream up, but accountability is left only to once in three years. That is not accountability. We have heard promises from Premier Rae of public participation, and he wants to hear more from the people so we can have open local government. None of it has happened.

This committee should look to the example of Rossland, British Columbia, where taxpayers are respected and get to vote by referendum on whichever issue they choose that bothers them. In our government's haste to impose ideologies and policies through political determinism, taxpayers are losing the last vestige of democracy. We are strangled by legislation, regulations, policies, dogma, ideologies and every possible kind of political stranglehold. Taxpayers should and must have a right to their own destinies and not be locked into hopelessness. No. There must be no more delegation of power to anyone except the taxpayers. Let's turn it around.

But by your committee and Bill 163, the taxpayer is being stripped of any opportunity to be heard or to appeal to a higher level, like the OMB perhaps, except through the courts. Opportunity to appear before the OMB is being stripped from us and it's obvious that only developers, consultants, politicians who support developers—with taxpayers' money, I must admit—and any other pro-development groups, as well as special-interest groups with government funding, will be free to appeal to the OMB. The ordinary taxpayer, who pays for the municipal appeals, usually supporting development—our money pays for them—is being buried. That is not democracy. I think that word is "dictatorship."

There must be an avenue of appeal for the ordinary taxpayer. I recommend that the Minister of Municipal Affairs give the taxpayers a way to be heard by way of a municipal affairs commissioner, similar to the Environmental Commissioner.

He who pays the piper calls the tune. The taxpayers are paying the piper and we must call the tune, but we are being stripped of recourse from unfair or political decisions, which do not reflect the wishes of residents in many instances.

What does a taxpayer do when the politicians let growth get out of control, like the region does, and add insult to injury by making the residential taxpayers suffer the consequences of uncontrolled growth by letting increased traffic go any which way through established residential areas which are not intended for traffic other than local traffic? What does a taxpayer do when the police will not provide traffic and speed control when traffic travels at 70, 80 and 90-plus kilometres in a 40-kilometre zone?

What does a taxpayer do when local politicians force

the residents to suffer the traffic from a local big business company which has another alternative? What does a taxpayer do when politicians put a bus route on a residential street and the homes shake and walls are damaged because of the vibrations and this taxpayer must also suffer the increased noise from high-speeding vehicles and buses? What does a local taxpayer do when the politicians approve building a sewage-pumping station in their backyard and the sewage smells permeate so badly that we cannot open our windows?

Where is our quality of life which is so loudly proclaimed when new growth is encouraged? Is quality of life only for the rich and famous, or is it for all equally? What does a taxpayer do when the provincial government elevates a highway in our backyard and tells us we won't even hear the traffic?

What does a taxpayer do when taxpayers challenge a council on excessive spending on projects which are not really a necessity? The taxpayers are denigrated and insulted, and in later years some politician will come up and resurrect it for his political opportunism.

And you consider this open local government and want to give more power to the local politicians?

Water users are told to reduce water abuse, and, "You can save money by saving water." On the other hand, the regional government gives special rates to certain businesses so that they do not pay full sewer costs. That's not fairness.

What do taxpayers do when the regional government executive committee and the chief administrative officer decide, in camera, to grant huge severances to outgoing employees over and over again and no explanation is given to the taxpayers?

I could go on and on, but I shall tell you what to do with this legislation: Shred it or file it in file 13, the parts that give more power to the politicians, like you do with the correspondence from taxpayers.

There is something twisted in Toronto. The privacy act prevents the taxpayers from obtaining information on how and on whom our money is spent, and the disclosure act says it intends to "preserve the integrity and accountability of local government decision-making." Please spare me the tears, all you politicians. There's something twisted, again.

I spent 15 years working for a justice at the Supreme Court of Canada, and I always believed there were at least two sides to a story. Where is the taxpayer's side in government legislation? The government even passes enabling legislation to make the taxpayers pay, through sewer and water costs, for all the growth in the region. Anything a developer wants, you name it, we pay for it. The developers scream and holler about development charges, even when they defer and freeze them. Whom does the taxpayer scream to? Where is our balance?

Regarding wetlands, the provincial proposals are unacceptable. The government makes no effort to prevent local governments from destroying natural wetlands, which have gone by the boards for development and roads in our area, and now the government has the nerve to impose its ideologies and policies on farm lands which

are being overrun by beavers migrating from growth and development areas.

All the lands designated are not wetlands; they are mostly farm lands and rural lands which are periodically wet, and wet from beavers cutting down trees and blocking the flow of any accumulated waters on private lands. Beavers are not a protected species, and did you know that beavers carry beaver fever? I have seen a lengthy letter from the Centers for Disease Control in Atlanta, Georgia, explaining how beaver fever is spread—through the water, I'll tell you. Does the government care how beaver fever can spread in water, or is it only interested in appeasing certain special-interest groups?

Again, where is the other side, the side of the farm land owners? To freeze lands in the name of wetlands without compensation is most insulting, but to do so in the name of conservation or preservation, while real natural wetlands are being destroyed deliberately for development, is very irresponsible. In Russia, they called that dictatorship. We call it democracy.

Mike Harris said it well when he spoke to the Toronto Home Builders' Association. He said: "Governments at all levels and of all political stripes have been undermining our economic and social welfare for years. Chronic overspending. Excessive taxation. Obsessive regulation. By trying to be all things to all people and catering to special interests, all we've done is thwart economic excellence."

Mr Villeneuve: A commonsense approach.

Ms Mason: Politicians already have too much power. Why else would they delegate authority to a CAO to approve contracts and agreements under procedure manuals and other special motions whenever they feel like being absent from meetings and cannot raise a bare quorum? That happens. Giving more power to a politician is like giving alcohol to an alcoholic.

My concerns with the Planning Act are several.

With regard to 12, minor variances: With the avenue of appeal removed, these could be subject to political misuse. I know of several instances where owners of small lots were denied a split-in-two of these lots, yet the purchaser almost immediately when he bought it got a three-lot split with the necessary minor variations. An appeal would allow the original land owner further consideration, removed from the politicians.

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On 14, giving municipalities rights to approve plans of subdivision would give too much responsibility without full accountability. Because of irresponsible growth and approvals of subdivisions, the residents of established areas are being pushed to the limit of their endurance and they are losing their so-called quality of life. We suffer the consequences of huge traffic increases through our residential areas because there is not and never was proper planning, and this proposed idea would not prevent this from going on and on. We suffer the costs of growth without control. We suffer the ever-increasing demands on our depleting financial resources.

Fast-tracking development is dangerous and not fair to the established areas. Reflect back to several years ago

when the development industry laid claim to large tracts of land in parts of outer Toronto. They pushed the right buttons and got services in short order. Residents of established areas have paid over and over again for new developments beyond their needs.

New development must pay for new development. Established areas have paid for the past, now they must pay for the present and pay for the future. Enough is enough.

I have followed municipal and regional government. I have seen politicians and bureaucrats hide behind legislation. Legislation and regulations have pushed the common, ordinary taxpayer further and further away from politicians. This has resulted in frustration and despair.

I have several recommendations which would bring back government to the people who are paying for it.

No more legislation etc should be enacted until the public is fully aware of what is happening through the legislation we now have. Don't pile it on.

The committee should contact the Rossland, BC municipality—maybe that's humbling for you, but I suggest you do it—and obtain information from them on their system of giving power back to the people by way of referenda and anything else.

The Minister of Municipal Affairs should appoint a municipal affairs commissioner, similar to the Environmental Commissioner, to hear complaints from anyone who is not satisfied with the response from local politicians and bureaucrats. The poor taxpayer has no avenue of appeal.

They should enact a two-term limit for politicians, even forcible rotation of elected politicians, so that they do not get too familiar with certain interest groups.

I would like to see real open local government, and not more political determinism. Not from the top down; I'd like to see from the bottom up. There must be an attitude change towards the taxpayers. The government must demand it, like they did with the equity legislation. I'm sure if you can push equity legislation, you could push legislation that taxpayers are respected.

And, as Benjamin Franklin said—I'll finish with him—"Where complaining is a crime, hope becomes despair." It's in your hands whether we commit a crime when we speak out or whether we sink further into despair by being deprived of our rights through more power to the politicians.

The Acting Chair: Thank you for your presentation, Ms Mason.

Ms Mason: It may not be on your avenue, but these are things that are bugging a heck of a lot of us.

The Acting Chair: Yes, and I'm just going to ask the parliamentary assistant to explain a couple of points.

Mr Hayes: If I may, on your comments, you're talking about giving the municipal politicians more power—

Ms Mason: Under the Planning Act.

Mr Hayes: —under the Planning Act. In fact, some of them have come and said that we're taking the power away from them.

Ms Mason: Well, how about giving it back to us?

Mr Hayes: Sometimes we're being criticized for making the policies and regulations and guidelines too stringent for them, and we think it's very important that they do have these policies and guidelines that they can follow for good planning.

The other part is, you talked about you're tired of all these in camera meetings. This legislation is putting a stop to those in camera meetings.

Ms Mason: No, you still have provision for a certain number of them, sir. There's a certain number.

Mr Hayes: Well, let's put it this way: There will be a heck of a lot less than there have been under the disclosure.

Ms Mason: Read the last page of my presentation. You'll see what I'm talking about.

Mr Hayes: All right. Obviously, we don't agree.

The Acting Chair: Again, I want to thank you for your presentation.

Ms Mason: Thank you, sir. I ran over time, did I? I'm sorry.

The Acting Chair: No, that's okay. Again, thank you very much.

Ms Mason: But I want you to think about getting the Minister of Municipal Affairs to get us some avenue of appeal. We're losing our right to the OMB. When Henry Stewart was there, he was very kind to people who wanted an appeal. He was very, very kind about things. But now we've lost our right. We're not going to have anything at all to go on. I think perhaps you could turn it around in our favour by having a commissioner of municipal affairs that we could go to.

CARLINGWOOD COMMUNITY ASSOCIATION

The Acting Chair: I will call the Carlingwood Community Association, Mr Allan Gregory. You and your delegation have half an hour, sir. I will just advise you that you may leave some time for any questions that you may want to be asked by the committee. We understand that your assistant is Mr Henry McCandless.

Dr Allan Gregory: That's correct. Good afternoon. My name is Allan Gregory. I am the immediate past president of the Carlingwood Community Association. On behalf of the association, I would like to thank the committee for providing us with this opportunity to speak to you about Bill 163. Assisting me today is Mr Henry McCandless, who is president of the Centretown citizens' community association.

The Carlingwood Community Association is a duly constituted, unincorporated neighbourhood organization that is registered with both the city of Ottawa and the regional municipality of Ottawa-Carleton. The association's area of representation consists of nearly 300 households. It presently forms part of Richmond ward and the provincial and federal ridings of Ottawa West.

It's a typical, active community association. Members of its executive are elected for one-year terms at an annual general meeting. All households within the association's boundaries receive timely notice of the meeting. The executive meets regularly on a monthly

basis except through the summer. Its meetings are open to all residents of our area.

CCA is a member of two umbrella groups: the Carlingwood Action Committee, an umbrella group composed of local community organizations and residents, and the Federation of Citizens' Associations of Ottawa-Carleton, which I'll refer to as FCA hereafter.

Since its formation in 1986, CCA has been concerned primarily with planning and municipal matters. Some of our members participated in the region's official plan review in the late 1980s. More recently, the association was an active participant in the city of Ottawa's official plan review.

As in the case of our responses to the draft official plans prepared by our municipalities, we don't have the resources to prepare, or the time to present, a comprehensive response to Bill 163, so we're limited in this response to highlighting matters of special concern to us. Our interest in Bill 163, however, is not necessarily limited to those matters.

As a member group of the Federation of Citizens' Associations of Ottawa-Carleton, we are familiar with the FCA's brief—I believe you heard it earlier today—and we support that brief strongly. The FCA brief makes it clear that Bill 163 will perpetuate a number of serious inequities in existing planning processes. In our brief, we shall concentrate on two of those inequities after we declare our support for two key changes in the Planning Act.

We support section 4 of Bill 163. This section would add a new section to the Planning Act setting out its purposes. For citizens' groups and citizens, the most welcome purpose must surely be purpose clause (d), which reads: "to provide for planning processes that are fair by making them open, accessible, timely and efficient."

We also support subsection 6(2) of the bill, which would require the decisions made by planning authorities under the Planning Act and any other prescribed act to be consistent with provincial policy statements issued under subsection 3(1) of the act. We think the Ministry of Municipal Affairs has provided a sound rationale for this change in its consultation paper entitled *A New Approach to Land Use Planning*.

Turning now to the concept of intervenor funding, which is an issue we're very much concerned about, that concept permits a hearings board to order funding to be provided prior to a hearing to an intervenor representing a public interest that would not otherwise be represented, or adequately represented, before the board, when the representation of the public interest would help the board make a better decision.

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The Intervenor Funding Project Act authorizes a number of boards, but not the OMB, to award intervenor funding. Our long-standing position is that the unavailability of intervenor funding to citizen groups and citizens at the OMB is a serious inequity in the planning process.

In 1989, we joined other Ottawa West community

groups in requesting the member for Ottawa West, Mr Bob Chiarelli, to introduce a private member's bill to remedy this situation. On December 14, 1989, Mr Chiarelli's bill, Bill 85, passed second reading unanimously and was referred to the committee of the whole House. We commend the report of the debate in Hansard to the committee, especially the contribution by Mr J.B. Nixon, the member for York Mills. Mr Nixon understood very clearly that intervenor funding is "about democracy and, more specifically, the right of the citizenry to be heard on public interest matters which affect a significant segment of the public." Unfortunately, a provincial election intervened and Mr Chiarelli's bill died on the order paper. He reintroduced it on December 20, 1990, as Bill 39. The bill received second reading approval on April 18, 1991, but apparently it also died on the order paper.

Consequently, we were very pleased when the Commission on Planning and Development Reform in Ontario, also known as the Sewell commission, recommended in its final report of June 1993 that the Planning Act be amended to permit the OMB to award intervenor funding. However, there is no provision in Bill 163 to amend the act in this way. We don't understand this omission, because the present government supported Mr Chiarelli's initiative when it formed the official opposition. A copy of the letter dated May 1, 1990, from the then official opposition House leader, Dave Cooke, to our association stating the NDP's support for the Chiarelli initiative is attached to our brief for the committee's information.

We submit that the omission from Bill 163 of a provision for amending the Planning Act to provide for intervenor funding is inconsistent with one of the new purposes proposed in the bill for the act; namely, to provide for planning processes that are fair. We ask this committee to see that such a provision is added to the bill. However, we think the provision of intervenor funding to citizen groups may only be a necessary condition for a successful outcome at the OMB for citizen groups. For reasons we shall now discuss, it may not be a sufficient condition.

After decisions have been made at the municipal level, the key dispute resolution mechanism is the OMB, an independent administrative tribunal. In its draft report of December 18, 1992, the Sewell commission wrote that the commission had "found broad support for the OMB and the role it plays as an independent arbiter and decision-maker." This statement is repeated in the commission's final report of June 1993.

Since our own experience with the OMB runs strongly counter to this assertion, we think the commission may have confined its inquiries to the main beneficiaries of the board's decisions, namely municipalities and developers, and to those professionals with a vested interest in the current role that the board plays. We doubt there is broad support in the province among citizen groups and ordinary citizens for the board. The commission also did not provide any evidence for its claim.

In looking for evidence in our limited capacity to do so, we found a little-known review by Bruce McKenna entitled "The OMB: Citizens as Losers," which was

published in a book called the City Book in 1976. Mr McKenna states: "Reviewing the 135 cases involving citizens before the OMB in 1973, 10 leading principles which are constantly used to justify the OMB's decisions emerge. These, better than anything else, give an indication of the board's basic attitude towards development, planning and citizens' groups."

The leading principles identified by Mr McKenna included the following:

- (1) Narrow the issue.
- (2) Decide on technicalities.
- (3) Reliance on experts.
- (4) Faith in the good government of municipal councils.
- (5) Hostility to citizen groups.
- (6) Give developers and municipalities a second chance.
- (7) Support for urban growth.
- (8) A few must suffer.
- (9) Selective reliance on official plans.

Further, although Mr McKenna found that the overall success rate of citizens was 40%, he also found, after breaking the cases down by their importance, that the success rate of citizens declined significantly as the importance of the case increased. Citizen groups lost all 11 major cases in which they participated.

Mr McKenna concluded that, "In spite of [the OMB's] semi-judicial atmosphere and its practices of taking evidence which seem to resemble an impartial court of law, it is performing the job of keeping citizens in their place," and that, "As for the province, the OMB seems a perfectly tuned policy institution. It gives angry citizens a second chance to fight when they lose, it gives them the appearance (though often not, as statistics indicate, the substance) of a fair and impartial hearing, and it siphons off anger and political energy that might otherwise be devoted to organizing local election campaigns or fighting for real local government reform. The citizens can be allowed to win quite a few small issues when no big interests are at stake, but not many big ones."

Even with some discounting, the author's findings and conclusions should have served as a wake-up call to the Ministry of Municipal Affairs to monitor the OMB's decisions for fairness. We do not know of any evidence that this was ever done, but we think the ministry must have been aware of Mr McKenna's research. His findings and conclusions are now almost two decades old. We think it is reasonable to expect that the Sewell commission would have updated Mr McKenna's work by carrying out a similar review of the board's decisions of more recent years. In the absence of such a review, it is not clear what, if anything, has changed since 1973, or that the commission's apparent confidence in the board is wholly justified.

It is not even clear that the OMB enjoys broad support among developers. The Toronto Globe and Mail reported on October 19, 1993, that James Bullock, a former president and chief executive of Toronto-based developer Cadillac Fairview Corp Ltd, told the International Council

of Shopping Centres convention in Toronto: "My vote would be to abolish the OMB as it relates to commercial real estate matters. It would not be missed." The *Globe and Mail* article goes on to say that warehouse clubs and other critics "argue that the OMB, where hearings can last for several months while legal bills quickly skyrocket, has become a costly bureaucratic nightmare."

Our own experience with the board arises from an important hearing on a regional shopping centre. The issues before the board included two regional official plan policies and a regional official plan amendment. There was ample evidence before the board of long-standing and widespread citizen-group and citizen support for the two policies and the amendment, which were approved or supported by both our city and regional councils. The board was also forced to hold three public sessions at schools in the community to accommodate the more than 100 people who came forward to present their sworn or affirmed testimony. Altogether we believe that 400 or 500 people attended the three public sessions in the schools in our community.

Members of this committee may be familiar with a little booklet published by the Ministry of Municipal Affairs. Its title is *Official Plans: A Citizen's Guide*. The edition we have defines an official plan in part as "A policy document...based largely on input made by citizens through the public participation process." The relevant pages are attached to our brief for the committee's information.

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We entered the ministry's booklet as an exhibit at the hearing and emphasized the above statement to the board. Notwithstanding the clear voice of the citizens and the ministry's own assertions to citizens, the board found overwhelmingly in favour of the owners and operators of the shopping centre.

The board relied almost entirely on the testimony of the developers' experts as justification for its decision and, in doing so, effectively ignored the views of the citizen groups and citizens. We think some of the other leading principles identified by Mr McKenna in 1976 are also reflected in the board's decision on the issues and in its subsequent rulings on costs in favour of the developers.

We think it is reasonable for the public to expect this committee to bring about the needed review of OMB decisions of recent years involving citizen groups and citizens to ascertain whether the board's decisions still in general reflect the apparent mindset identified by Mr McKenna. We would also think the OMB's new chairperson would welcome such a review as a help to her task of giving the board its direction.

In a companion booklet to Bill 163 entitled *Understanding Ontario's Planning Reform*, the Ministry of Municipal Affairs suggests that the bill will empower municipalities by giving them greater local control over planning and the development process. It also states that Bill 163 "is based on the belief that planning the development of Ontario's cities, towns and rural areas can best be accomplished by the people who live there." If the minister truly believes this statement, then he should

move to empower citizens, not just municipalities, and to reduce the OMB's power over the lives of the citizenry.

We think the minister should begin by instructing his officials to replace the definition of "official plan" they have proposed in subsection 3(1) of Bill 163 with the definition proposed by FCA. The FCA's proposed definition reads:

"'official plan' means a plan that is:

"(a) consistent with the purposes of this act," under the Planning Act, "under section 1.1 and the policy statements issued under subsection 3(1);

"(b) based largely on input made by citizens through the public participation process; and

"(c) approved by an approval authority under section 14.7, 17 or 19."

If the minister does not want official plans to be based largely on citizen input, he should declare that in the Legislature. We don't want other people in the province to be seriously misled into thinking they can have any real influence over how their communities develop through the official plans of their municipalities.

The other thing the minister can do is end the restriction on appeals of official plans beyond the OMB to matters of provincial interest identified by the minister. This restriction will be carried forward by subsection 19(10) of Bill 163. We submit that it is intolerable that citizens cannot take the decisions of the appointed members of the OMB on official plans to the elected ministers of the crown who are accountable to the people through the Legislature.

In conclusion, the Carlingwood Community Association acknowledges that in some ways Bill 163 is an important step forward, but we think it fails to address many of the inequities in existing planning processes. These will be perpetuated. Therefore, it is our submission that the amended Planning Act will not achieve one of its most important new purposes; that is, "to provide for planning processes that are fair by making them open, accessible, timely and efficient."

Mr Chairman, I don't know how you wish to proceed. My assistant would like to make some remarks too, but you might like to have some questions directed to me first. I'm not sure.

The Acting Chair: You have about nine minutes left and each party will get three minutes for questioning. You may choose to continue and then it will reduce the time for questions.

Dr Gregory: Well, I'd like my assistant to speak.

Mr Henry McCandless: I'll take only a couple of minutes or three. I just wanted to note one thing: that in the brief of the Federation of Citizens' Associations there was a recommendation for a clause in the Planning Act that reads, "All public bodies with responsibilities under this act shall report annually to the minister on the discharge of their responsibilities under the act."

What that does is it creates accountability reporting. I don't know—I couldn't do this, because with the thing I paid \$13.80 for, I don't see the old and the new. I can't tell whether in the Planning Act there's any decent

description of accountability for anything. But the point about the FCA's submission is that it's public accountability. Reporting to the minister, we're assuming, is reporting publicly; that is, the minister tables with the Legislature. Or you could have it "shall report annually publicly" and then "through the Minister" is implied. But the point to stress there is it's public accountability.

We argue that it flows out of the notion that what accountability is in aid of is increasing our public trust in our public institutions, which all the polls and everybody says has nowhere to go but up. And we think it's reasonable to expect that in accountability there be a set of standards. I'll just cite five short ones. They are, by the way, in an article in the *Canadian Parliamentary Review* that I've lodged with the clerk—I believe all MPPs get that journal—April 1994.

It's reasonable, is it not, that those proposing actions that are going to affect the public in important ways state for that action who is going to benefit and how, and who is going to bear what costs? Those come from a Massey lecture by Dr Ursula Franklin, the question of, don't ask what are the costs of benefits; ask whose costs and whose benefits.

The second standard is that you have to state achievement objectives. You all know from your own estimates, and certainly federally, where each department has its own estimates called a part 3. They are largely descriptions of intended activity which are not statements of intended achievement or accomplishment, and without that you just get process for the sake of process.

The third standard is that you must ask the accountable to state their own performance standards, and we in Centretown are going to start doing this with the city of Ottawa now. We're going to say to each department—for example, a legal department that can't close down an illegal operation that council has voted 100% closed—"What would you say, Mr Legal Counsel, are your own performance standards for carrying out the council's wishes? How would you like to tell us that? Do you think it's unreasonable that we should ask you for that?"

That's the sort of thing. I mean, we are fed up being supplicants and going around beseeching. It doesn't matter, frankly, whether it's this committee or a planning committee in a city where citizens come to a microphone and supplicate. I think it is reasonable, since the citizens pay the salaries of all our elected representatives, that we have reasonable expectations of all our elected representatives at all levels of government. So that's where you get the performance standards, that you have an obligation to state what you think your own performance standards are, even for running the committee. Mr Anthony or whatever earlier, that makes me aghast.

The fourth standard is the obvious, natural one: State your actual results and the significant variance from intended results, the financial statements with reported variances, the classic example. But we don't have that in the public sector anywhere at any level of government.

The last point is really a new one, which is: State the learning that you gained from your efforts and how you applied it. That we don't have anywhere. I was brought up in British Columbia, and in 1952 we had the Wenner-

Gren fiasco where a Swede came over and built a dam and left BC with \$200 million or something and us holding the bag. And, what do you know, they repeated that exercise in Manitoba a dozen years later or something.

So governments don't learn from each other and organizations in government are not themselves learning organizations, even though I understand Management Board Secretariat is now launching an initiative in how to make the Ontario public service more of a learning organization.

1740

Those are five standards and I'll close with the idea of why public accountability is so powerful. If you ask me, as a chief executive officer of Ontario Hydro or any endeavour, to state publicly what I intend to achieve, I want to make a praiseworthy statement. You people who are elected to office know that better than I do. If you then ask me to report what I think I accomplished and I lie to you, Mr Erik Peters is going to find me out, our Provincial Auditor.

But if you don't ask me to state what I intend to achieve and the reasoning for the fairness side and you don't ask me to state my actual accomplishment, my performance, never mind financial statements—the NCC has 14 pages of financial statements and does that help a citizen? If you don't ask me to account then I'm scot-free. If you ask me to account, then what I say can be validated by citizens' groups, by professional auditors, by a host of people and I will be found out if I mislead. The result of that is public loss of face for me and I don't want that. If there's one thing that's cross-cultural in the whole world, it's public loss of face.

But we've never simply asked for the accounting. Maybe staff would like to tell me how many times in the Planning Act, passed or proposed, the word "accountability" appears. I wrote to the Sewell commission and said, "You've got a chance to build in accountability here." I got an acknowledgement of the letter, but you don't see anything in that. They even wanted to have an accountable process. How can you hold a process to account? That's not a human being. So you're going to get that in the act; you're going to have an accountable process. That isn't even logical?

That's the pitch I want to make, that this committee can do some pioneering work and there is at least one department in British Columbia that is thinking of this very thing and most of you may know that the Provincial Auditor is keenly interested in the adequacy of accountability provisions in legislation. I will leave you with that and thank you very much for your time.

Mr Grandmaître: Mr Gregory, now that I know how you really feel about the OMB, if you were to receive intervenor funding would that change your mind?

Dr Gregory: I think, Mr Grandmaître, that's a necessary condition, as we indicated in our brief, but it's not a sufficient condition for citizens' groups to be more successful before the OMB. We think there has to be—

Mr Grandmaître: A change of attitude.

Dr Gregory: Yes, a change of attitude at the board,

but I think the board has to be given some direction and I think this committee has the opportunity to do that by suggesting, picking up on proposals we have made for changes in the bill, such as making it very clear in the definition of an official plan that it is to be based largely on the input received from citizens during the public participation process. That little booklet, the edition that we cited and we filed with the board during a hearing, was the one that was issued when you were minister.

Mr Grandmaitre: Yes. Thank you. Good booklet.

Mr Villeneuve: If we were to establish a hearing board, they may then become the culprits, as opposed to the OMB, because if they would not grant intervenor funding, then they would be fingered as: "Hey, you're in the pockets of someone or other." Who is this hearing board?

Dr Gregory: I understood from the Sewell recommendations that the OMB itself would be the body, the board that would hear applications and grant applications, so it would remain in the hands of the board, the OMB. There wouldn't be a separate hearing board, under Sewell's recommendations.

Ms Gigantes: I wanted to ask—because there isn't much time for discussion, which I regret—whether you've considered asking some of the existing students of political science at Carleton or at Ottawa U to do an update on the OMB review that you've looked at, because it does seem to me something of interest, both to the public and also it would be a good academic task.

Dr Gregory: We have considered that, but we think the ministry itself should take a look as well.

Ms Gigantes: It might be nice to have an outside observer doing it.

Dr Gregory: An independent review, yes; McKenna's was an independent review. But we think the ministry itself should be concerned with the matters we have brought before this committee.

The Acting Chair: Thank you very much for your presentation. I think it is quite informative.

ALEX MUNTER

The Acting Chair: I call Councillor Alex Munter to the table.

Mr Alex Munter: It's a pleasure to be here and especially to have the opportunity, unaccustomed as I am to it, to have the last word. I've submitted—I hesitate to call it a brief. It's two pages, but it's just a couple of points I would like to make.

I participated with many other people in Ontario in a number of workshops, meetings, consultations through the Sewell commission process, and I certainly support the direction that this bill takes us, the amendments it makes to the Planning Act, and I regret that many of the recommendations of the Sewell commission were not in fact included in the bill.

Most specifically, the three that I think would help the most in terms of streamlining the planning process in Ontario would be: the creation of a ministry of municipal affairs and planning, as had been recommended by Mr Sewell; an issue of great concern in areas like Kanata is

allowing municipalities to regulate tree cutting, removal of vegetation and fill, changes to elevation on private property; and finally, the issue that was just discussed at some length here, intervenor funding to even the playing field.

The other issue that I believe is very important, coming from a municipality that is today twice the size and population that it was 10 years ago, was recommendation 7 of Mr Sewell's report, which wouldn't fit into legislation but I think is something the government should very seriously consider, which is the whole issue of cost-benefit analysis of new development.

We often find ourselves in the position in a suburban fast-growth area like Kanata that we are told we need the assessment dollars and we need the revenue that new development generates. The fact is, the reason we need it is because we have to pay the bills from the development from a few years before. So we get into a cycle, not to be too melodramatic about it, of dependency on development that requires us, and in many ways propels us, to approve proposals from the development industry because we are in need of the revenue because we have overextended ourselves.

The other element I'd like to comment on is schedule B of the legislation, and that's the Local Government Disclosure of Interest Act. I'm very delighted to see the legislation that is here today. I think, having spent the past three years getting to know many municipal politicians in Ontario, the vast overwhelming majority of local elected officials are people who are committed to their communities, who in fact sacrifice a great deal in terms of potential income, in terms of income, to serve their communities. Yet I also believe the public has the right to know and the public has the right to be protected from members of local councils and locally elected officials who cannot clearly see the distinction between their public role and their public responsibility and their private interests. I think both the public and those of us who work hard with integrity at the local level deserve the protection of clarity this legislation will provide.

One of the issues that certainly in my experience has been enormously frustrating for ratepayers who are concerned when a local official blurs the line between his or her private interest and their public responsibility is the fact that if they want to do anything about it, they've got to hire a lawyer and they've got to go to court. As a result of that, I think the legislation that currently exists is basically useless. It forces private individuals to resort to their own expense to enforce legislation that is intended for the public interest.

I think the establishment of a filing system and a public registry will proactively solve a lot of problems, because it will answer the public's questions before they have to be asked and, frankly, I think it will require those elected officials who might be otherwise inclined to be very rigorous in separating their business and public responsibilities.

1750

If I would have any suggestions to make in terms of improvement for schedule B of Bill 163, it would be, firstly, to require candidates upon registration for office

to list their interests as opposed to only those who are elected, because I think the public, when it goes to the polls to elect its representatives, deserves that information about the people who are seeking the confidence of the electorate.

I would also say that the disclosure requirements for spouses and minor children are too narrow and that those should be broadened. There are a number of ways of doing it. I understand Councillor Cullen this morning was suggesting adult children and parents. Perhaps another way of addressing it would be all those residing in the same household. At any rate, I think that in 1994 limiting disclosure to spouse and minor children, in fact, does leave open some areas that this legislation is intended to close.

Those were the Friday afternoon pearls of wisdom and I'd be quite happy to answer any questions.

Mr Villeneuve: Mr Munter, thank you very much for taking time on a Friday afternoon to make your presentation.

We had an earlier presentation today from the Ottawa-Carleton Home Builders' Association who tell us that the costs in Ontario, as opposed to just over the river in the province of Quebec, are 30% to 40% higher development costs and therefore real estate and development are a lot more affordable on the Quebec side. From your presentation, I feel you would rather they go to Quebec than come here, because it's costing the taxpayers more money.

Mr Munter: I'm not sure I followed the question. Could you restate the question for me?

Mr Villeneuve: The question is: Because you're competing with the province of Quebec, and you said that in the area you represent you're having to go after more development to pay for past development and it's a vicious circle, you sound like you're losing on an ongoing basis. Do I read you right?

Mr Munter: What I would say is that what we need to do in the city of Kanata, where we have enough land for development for 20 years—we have approximately 17,000 to 21,000 housing units approved, the equivalent thereof approved on vacant land—we need to make better use of that land. We need to make more judicious decisions about the use of that land and we need to take into consideration the cost of the development in addition to the revenue it will bring.

My concern, having sat on Kanata council since 1991, is that the information we get at the council table is about the revenue from a development. There is no analysis and there is no information about the cost, and I think having the information about the cost would help us make better decisions.

There's no question, in the city of Kanata, which has a projected population of 100,000—one of the most rapidly growing municipalities in Ontario and will continue to be so. All I'm saying is that we need to perhaps be more judicious and more careful and have more information about how we make those decisions.

Mr Villeneuve: Are you a full-time politician, sir, or do you have another career?

Mr Munter: I work full-time for the citizens of Kanata, that's correct.

Mr Villeneuve: You would realize that in the area I very proudly represent—23 municipalities—we have very few full-time politicians and I would suggest that their annual income from the business of politics would probably be in the area of 8% or 10% or 12% of what yours is.

Interjection.

Mr Munter: My income is \$19,872 a year—speaking of financial disclosure.

Ms Gigantes: We've had a lot of discussion before this committee and indeed in the work leading up to the drafting of the legislation about the disclosure guidelines and what the legislation would say, and there have been two schools of thought that oppose yours. One would say that if we ask all candidates to disclose before an election then we're going to be dealing with so many files that nobody will ever be able to sort through and make any sense of them. Another argument that has been used against the position you've taken is that it's not really fair to make somebody pay the cost, in public disclosure terms, if they don't win the election. Would you like to comment on that?

Mr Munter: My response to the first concern would be that my experience of at least the media in Ottawa-Carleton is that they certainly would have the resources to make sense of those financial disclosure statements. I don't see the burden in workload. The city clerk would open a file and would pop the forms in the file and that, certainly in my municipality, I think would be manageable; I think in most others as well.

On the issue of forcing candidates to face the music, surely someone who is seeking the public trust, someone who will, under this legislation, be required once elected to disclose financial information, would surely be prepared to do that before the election. I think underlying that statement is a suggestion that perhaps voters might ask some questions if they knew of candidates' business interests and as far as I'm concerned that would be just fine.

Mr Eddy: Thank you for your presentation. Just following up on the disclosure bit, we've had many people say that if you're going to require disclosure in the manner that it's proposed, then certainly candidates should do it also, to put them on an equal basis with the members who are already there and re-entering the race, so to speak. That's an important feature and I tend to agree with that if we're going to have what's proposed.

Coming back to your other points: The matter of tree cutting and vegetation removal and requiring fill of lands to go through some kind of process is important because what we've been told on many occasions is that people will buy land and, before submitting an application for development, they will remove what's on it and then leave it, in many cases, subject to erosion and a very bad situation. Certainly, at the very least, there should be permissive legislation on some of these things because some of the municipalities are asking for it, we've found.

I was very interested in your remarks about requiring

a cost-benefit analysis of any new development. Here you're in a regional municipality. At the time the regions were formed it was for the fast-growing urban area so that regions were looked upon as becoming urban municipalities even though they included a lot of rural area.

My problem is with your concern about growth. I would imagine that all of the building that takes place provides accommodation. How do we provide for the population growth in any given area if we don't have growth? I would think most cost-benefit analyses would tend to show that it isn't cost—

Mr Munter: It would depend how you do it. Surely providing accommodation would be a benefit. If I could just clarify one thing: I don't think it would be feasible to have a cost-benefit analysis of every development proposal. But what there's an absolute dearth of at the moment is information, analysis, some kind of sense of cost and benefits that we could take into our decision-making. I think what it would produce is not prohibition of development in areas like Kanata, where we have hundreds and hundreds of acres of land that are zoned and official plan approved for urban development, I think what it would lead to might be better decisions about what kind of development on that land and it would simply, I think, empower municipalities and municipal councillors to make more judicious decisions.

Mr Eddy: What should happen and when it should happen.

Mr Munter: Yes.

Mr Eddy: Oh, I see, thank you.

The Acting Chair: Thank you very much. I think the ministry staff would like to make some comments.

Ms Forrest: I'd like to make some comments on your

point about costs and benefits of development. The policy statements address that issue in several ways. First, the policies of goal B encourage development to be directed to existing buildup areas and settlement areas and encourage compact form and a mix of uses that efficiently use existing land and infrastructure.

In considering development in rural areas outside of settlement areas, the policies encourage municipalities to look at the long-term public costs of infrastructure and public services and public service facilities as part of their decision on those new development applications.

Further, in the housing policies, policy C5 encourages municipalities to use residential development standards that facilitate affordable housing in compact urban form in development and redevelopment. In fact, the ministry has issued a draft publication on alternative development standards.

Mr Munter: I would support all of those measures and what I would encourage the government to do is to empower municipalities with resources to carry those things out by doing research on dollars and cents for those items.

The Acting Chair: Thank you for your presentation. I'm sure it will be used in a most effective way.

Before we adjourn, I know this is the last part of the on-the-road mission here and I want to thank all the ministry staff and the legislative staff for all the support they are giving the committee while we're on the road.

Mr Hayes: And the PA.

The Acting Chair: And the parliamentary assistant in an afterthought, yes. We stand adjourned until 9 am on Monday, September 19, in Toronto.

The committee adjourned at 1802.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy

Gigantes, Evelyn, (Ottawa Centre ND) for Ms Harrington

Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Perruzza, Anthony (Downsview ND) for Mr Bisson

Rizzo, Tony (Oakwood ND) for Ms Haeck

Sterling, Norman W. (Carleton PC) for Mr Harnick

Villeneuve, Noble (S-D-G & East Grenville/S-D-G & Grenville-Est PC)

for Mr Tilson

White, Drummond (Durham Centre ND) for Mr Winninger

Also taking part / Autres participants et participantes:

O'Neill, Yvonne (Ottawa-Rideau L)

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister

Boeckner, Pat, manager, plans administration branch

Dewar, Diana, manager, municipal planning policy branch

Forrest, Norma, planner, municipal planning policy branch

Root, David, municipal advisor, field management branch, Ottawa regional office

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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ISSN 1180-4343

**Legislative Assembly
of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Monday 19 September 1994

**Journal
des débats
(Hansard)**

Lundi 19 septembre 1994

**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

**Planning and Municipal Statute Law
Amendment Act, 1994**

**Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Monday 19 September 1994

Lundi 19 septembre 1994

*The committee met at 0909 in room 151.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

TOWN OF OAKVILLE

The Chair (Mr Rosario Marchese): We welcome the town of Oakville, Councillor Sean Weir. Mr Weir, with respect to what you were telling me, the fax I don't think has yet arrived, so you'll have to do your best with what you've got.

Mr Sean Weir: We'll see if that's good enough, Mr Chairman. Thank you very much. For the benefit of the other members who may not be aware, the other part of the delegation from the town of Oakville is our town solicitor. His office telephoned me a few minutes ago to advise that he is apparently trapped in a GO train because of an accident on the line, and he may not be here on time. I have a draft of his remarks, and they relate to the planning portions of the bill. I will read those if that's acceptable.

My intention was to speak to you simply on the Local Government Disclosure of Interest Act. My council is quite concerned about a number of provisions and has authorized me to speak to you with regard to those points.

Generally speaking, the town of Oakville endorses the submission made to you by the Association of Municipalities of Ontario, AMO, and I know it made a number of particular or specific recommendations. I wish to address three points and three points only.

The first is with respect to subsection 2(3) of the proposed act, that's schedule B to Bill 163, and the second is with respect to financial disclosure. The third point is with respect to clause 4(1)(d) regarding a member's presence during a meeting at which the member declares a conflict of interest.

The first point is with respect to knowledge of a pecuniary interest. With the exception of clause 2(3)(a), the draft legislation requires a member to know that he or she has a conflict of interest. This is the deeming provision I'm referring to; clauses (b), (c) and (d) all require the member to know.

Generally speaking, I suggest to you that in the circumstances covered by clause (a) the member would know that they have a pecuniary interest in the matter before council. However, I have an example I can provide to you, it's a very real one and strikes close to home with me.

I'm a partner in a Toronto firm with over 200 lawyers in that firm. Our client list extends to many thousands of names and it's virtually impossible for me to know every client on that list and recognize it simply because it appears in the agenda. I've asked the lawyers in my firm to let me know when they're doing any matters with respect to the town of Oakville.

However, it's quite conceivable that we will—and we've had matters like this, where our firm represents a client. I don't know that they're a client of our firm. Our firm is not acting in the matter before council, yet a client of our firm is before council. In those circumstances, I could see that I don't know in fact that somebody we act for is before us. I could vote in those circumstances without that knowledge, in good faith, and have breached the statute. That's one real example that causes concern to me and I'm sure there are others.

The first submission I'd make to you is that you add the language—and I've given you some remarks and you'll see it in the middle of page 2—to clause 2(3)(a) right at the end of that clause. It's language similar to what you find in clauses (b), (c) and (d) "and the member knows that such corporation, person or body has a pecuniary interest in the matter."

I'm not sure there's anything that would offend the spirit or intent of the legislation, and I don't have any problem with that, but I have concern that where members act in good faith and without knowledge of a conflict, they may be caught, and I'm not sure that's the intention.

The second point I'd like to make is with respect to financial disclosure. I don't have any difficulty in making some portions of my financial affairs public, and I don't have any concern with that. There are two things I'd like to say to you about this.

One, I'm not sure that those who wish to satisfy their idle curiosity when they're in signing their kids up for a

parks and rec program and say, "Oh, I'd like to know what Sean Weir's affairs are"—so they just go next door to the clerk's office and say, "Give me his information."

Members of provincial Parliament have a central registry where their information is filed. I'd recommend that we consider doing that, or at least that you have to fill out an application or pay a \$5 fee; something, as I said, so there's no impediment to access but would slow down those who merely wish to satisfy their idle curiosity.

The second point—and this is where I'm endorsing what I believe is proposed. I have received a draft form and I've stapled it to the last page of my remarks, which is what I understand is what we will be required to disclose; in other words, what you own, where you work, who you owe money to, but not the amounts.

If that is the case, I don't have any difficulty with that form at all. If there was an attempt to request that we disclose amounts, I don't think that serves any public interest, and doesn't go to what the legislation's trying to get at.

I would ask this committee to do its best to ensure, if this form is what's proposed for draft regulations, that indeed this is what finds its way into the regulations and there's no move to disclose specific amounts as to the value of your home or your mortgage or what you make at your day job, if you will.

The final point I'd like to stress is presence at meetings at which you declare conflict of interest. I know there's been perhaps some differences of opinion as to what the wording of the proposed legislation actually means. I think most of you are aware that most municipalities in the province of Ontario provide for declarations of conflict of interest at the commencement of each of their meetings. The way the legislation is currently drafted, if you're down at item 20 on the agenda with a conflict, you would have to leave immediately upon making that declaration.

I've provided you with some suggested language on page 3 which would make it clear that you leave the meeting immediately prior to the matter being considered and remain—I've got "in absence," it should actually be "absent." There's no reason for me to change that—but "remain absent from the meeting until the matter is no longer under consideration."

I think in these committee hearings, at least one of the members has alluded to the fact that sometimes members of council choose to avoid taking sides on a difficult issue by declaring conflicts where they're perhaps straining it. I'd suggest to you that the current proposed legislation lends itself to any councillors who wish to abuse that privilege. As I said, if they're at item 20 on the agenda, I believe the way the legislation is written, you don't have to declare it at the beginning of the meeting, that's a subject of the municipal bylaws.

I'm sure that your defence of the proposed language would be "The member doesn't have to actually declare it until the item appears on the agenda." However, if they wish to, as I said, avoid a very troublesome issue that's item 11 on the agenda, then what they do is declare their conflict at the beginning of the meeting, leave the

meeting and come back when their conflicted item has been dealt with. So you may be working a disservice to the constituents of a particular municipality by taking their elected representative out of the debate when there's really no reason for them to be out of that debate. So I'd ask you to adopt the language that's on page 3 of my submission, just to clarify that they only have to leave the meeting immediately prior to that issue being considered.

Those were the three points I wanted to make to you with respect to the conflict of interest. As I said, we generally endorse the AMO presentation but, in my view, these are the three most important issues.

I don't see that my town solicitor has arrived, although his more polished remarks apparently have. If you'll bear with me, I'll just try to get right to his discussion which relates to planning issues. I'm not as familiar with these sections of the proposed legislation so I would read through his remarks. The thrust of Mr Gates's remarks—he's been solicitor with the town of Oakville I believe for almost 20 years; town solicitor for about the last 13. He's very conversant with planning issues and the relationship between the local municipality, Oakville, the senior local government which is the region of Halton, and the OMB. The town of Oakville has been to the OMB on several occasions.

The thrust of his remarks really is that the proposed legislation takes away too much from the local level of government, which is fine when you have a very small local municipality which does not have the resources to have a full-blown planning process or department. When you have significant municipalities such as the town of Oakville, we do have a very sophisticated planning department, our own official plan, and so the thrust of his remarks is: If the local municipality wishes to delegate its functions up to the higher tier, that's fine. Don't mandate that and don't strip the local municipality of its functions. With that by way of introduction, I will just read his remarks.

The first is with respect to official plans: Subsection 17(7) of the proposed act would require regional municipalities to prepare and adopt official plans. Subsection 17(8) would permit local municipalities to do so. A community's official plan is perhaps its most important planning document. It sets out the hopes and aspirations of the community for the next 10- to 20-year period and mandates the zoning bylaws and development during that time.

In these days of restricted budgets, cutbacks and reduction in duplication, it is clear that if an official plan is mandatory at the regional level, and only permissible at the local level, official plans for local municipalities will be completed at the regional level as part of the regional plan.

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Municipalities should be encouraged, and not discouraged, to put in writing their plans for how they wish their towns and cities to grow. This will provide direction and guidance to the public, to staff, to the development industry and, in the long run, reduce time-consuming confusion and frustration. Without a specific requirement or encouragement, very few local municipalities will have the

financial means or staff resources to be able to complete appropriate plans. This could impair and perhaps end real local planning.

Official plans, we submit, should be mandatory at the local level unless delegated up by the local municipality to the next level of government, and the content of official plans is also very important. The town of Oakville is concerned that you will also adopt by regulation Mr Sewell's recommendations respecting what may go into local plans and what will go into regional plans. Mr Sewell's recommendations would result in virtually all of the more important decisions respecting Oakville's environmental issues, Oakville's growth and phasing, Oakville's allocation of employment plans, Oakville transportation and transit issues taking place at the region.

I'd now like to introduce Mr Gates who has survived his adventures on the GO train this morning. Once you've got yourself put together, Doug, you can take over, but I'll carry on for a moment and finish this first point.

Oakville believes these decisions should be made by politicians who represent those citizens most affected by these decisions, that is, Oakville's town council. More appropriate direction would be for the region's official plan to focus upon the specific application of provincial policies and upon regional policies respecting regional services in the region. Decisions respecting environmental issues, growth and phasing, allocation of employment plans, transportation and transit issues should be made at the local level and incorporated in local official plans.

I think you're going to get to another example at that point, Doug. I'm on page 5 of your remarks.

Mr Doug Gates: Another example of the enlargement of regional powers has to do with the proposed subsection 17(29), which gives powers to the region to refuse to refer an official plan to the OMB if the plan or amendment is premature. This latter test may enable regions to thwart local official plans by deeming them premature and thereby frustrate local planning initiatives. The local municipality would have no appeal to the board in this situation and would therefore be without recourse.

While cases of dispute between the region and the town are rare, we take the position that the issue of prematurity is best left to the OMB to deal with.

The second main issue in planning has to do with subdivisions. With respect to the subdivision approval process, again regional powers would be enhanced at the expense of those of the local municipalities. Subsection 51(14) of the proposed act provides that, if required by regulation, a public meeting must be held by the approving authority. In Oakville the approving authority is the region of Halton. With respect, the region of Halton is not the proper place to hold a public meeting concerning a subdivision in Oakville. The public meeting respecting a subdivision in Oakville should take place before Oakville town council, not Halton regional council on which Oakville only has seven of 25 votes.

The third planning issue relates to minor variances. The current Planning Act provides in subsection 45(12) that any person interested in a committee of adjustment decision may appeal the decision to the Ontario Municipal

Board. The proposed section 45.1 abolishes such appeals and provides for a review by the council of the local municipality. In our opinion, council is not the appropriate place for committee of adjustment appeals.

Firstly, any person who's concerned about lack of right of appeal to the OMB will opt to apply for a rezoning. Rezoning applications can and often do end up at the OMB. The board's load will not be significantly reduced and the municipality's planning load will be significantly increased, since many applications will be diverted away from the committee of adjustment process to the rezoning process.

Secondly, one of the many laudable attributes of the OMB which Oakville town council recognizes is its independence. There is a presumption that it is not influenced by any councillor's acquaintance with members of the public, nor by the number of votes siding with a particular issue. Anyone who has witnessed a municipal council's performance in the six months before a municipal election will tell you how difficult it is on occasion for the municipality to come to the best decision at the expense of losing votes. Our council does not welcome this new power.

Finally, there could be a significant downloading of costs from the provincial government, which currently funds the OMB, to municipalities. Councils may well have to hold special meetings to deal with these reviews. More staff time would be required to prepare for and attend these meetings.

The fourth issue on the planning side relates to site plan changes. Turning to the site plan approval process, it is proposed that a new provision be added to subsection 41(8) of the Planning Act to allow a regional municipality, as a condition of site plan approval, to require the conveyance to it, free of charge, of land for a public transit right of way. Oakville believes that this change is a good one but that it should be amended to allow local municipalities as well as regional municipalities to have this power. In some urban areas within the GTA, it is the local municipality that exercises the responsibility for public transit within its boundaries. In fact, virtually all of the local suburban municipalities west of Toronto have their own public transit operations. This is Oakville's position. There is no logical reason why local municipalities should not also have this power.

Finally, with respect to affordable housing, the proposed policy statement on housing would require all local municipalities to provide opportunities for affordable housing in each community planning area. The term "community planning area" is the subject of a rather loose definition in the implementation and interpretation section of the policy statements. It is difficult to determine from the definition exactly what is meant by a community planning area, but it seems to be something smaller than an entire community but larger than an individual site. It could very well mean a single neighbourhood. It is Oakville's position that this reduces council's flexibility in deciding where it is best to locate affordable housing within Oakville. Oakville would like the current flexibility to remain.

Respecting a couple of the other legislative changes

unrelated to planning, there are two that Oakville would like to comment on.

One has to do with section 193 of the Municipal Act relating to the disposition of surplus real property by municipalities and local boards. The proposed clause 6(a) would allow the minister to make regulations prescribing the classes of property for which an appraisal would not be required as part of the process of disposing of the real property. It would be our suggestion that the regulations not require an appraisal for any properties to be offered for sale at less than \$25,000. The reason for this is simply one of cost. Appraisals can cost anywhere from \$500 to \$2,500, so it makes little sense to require appraisals for properties of low value.

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The second issue under the Municipal Act relates to in camera council meetings. Under the proposed section 55(5) of the Municipal Act, there are seven situations in which a local municipality would be allowed to hold a meeting or part of a meeting in camera. We think there should be one addition to the list which would allow a local municipal council to go in camera to discuss matters pertaining to industrial strategy. For instance, a new company may wish to locate in Oakville and may wish to speak to council in camera in order to make sure the local council really wants it. Some industries are not embraced by municipalities. Companies do not like to make their future plans public because it may give their competitors an advantage or it may unnecessarily upset their workers if a change in location is contemplated, even at a very early and preliminary planning stage. It's for this reason that we recommend that for matters of industrial strategy, council also be permitted to go in camera.

I brought with me a summary of Mr Weir's and my remarks and I would like to leave it with the committee. But just to summarize very briefly, Mr Weir covered with you the conflict-of-interest reform having to do with, first of all, personal disclosure. I think Mr Weir indicated to you that the Oakville council and he were pleased with the published disclosure form if that is the one that is utilized, but would have some concern if a more detailed form were required.

Secondly, with respect to conflict of interest, if there is a conflict that the councillor doesn't know about, then at the very least the councillor should be able to use that in a defense of a conflict-of-interest charge.

Thirdly, on the presence at meetings, Mr Weir made the point that the councillor, when declaring a conflict, shouldn't have to leave the entire meeting, but should only be required to leave the meeting for the particular item that the councillor has a conflict for.

With respect to Planning Act reforms, there were really four main issues Oakville brought to you this morning: firstly, that the official plan should be mandatory at the local level unless delegated up; secondly, that regional official plans should deal with the application of provincial policy and regional policy respecting regional services; thirdly, that local plans should deal with substantive issues affecting the community, including environment, growth, phasing, employment plans, transportation and transit; and finally, that the OMB, not the region,

should determine the prematurity of an official plan.

I dealt with the issue of subdivisions, that the subdivision public meeting should be held at the local level; with respect to minor variances, that the appeals should remain at the OMB; with respect to site plans, that the town and local municipalities should have the same ability to require as a condition public transit rights of way; and with respect to affordable housing, that the policy remain on an Oakville-wide basis. With respect to the two other changes, we're suggesting that no appraisals be required when the properties have a value of less than \$25,000 when being sold by municipalities and, finally, that council should be able to go in camera to discuss industrial strategy.

I apologize for being late. The transportation system seemed to conspire against me no matter what this morning and I'm pleased that I'm finally here. At the end of the submission or any questions, I'll hand out my summary to you.

The Chair: Mr Gates, we ran out of time. We're happy that you made it here this morning and we want to thank you both for coming and for the submission you made to this committee. You can give us those recommendations if you like, and we'll circulate them.

SOCIAL PLANNING COUNCIL OF METROPOLITAN TORONTO

The Chair: We invite the Social Planning Council of Metropolitan Toronto, Mr Peter Clutterbuck.

Mr Peter Clutterbuck: I have provided a copy of the statement which I'm going to make and I'll launch right into it. It's only eight pages, and then perhaps there will be some questions afterwards.

Founded in 1940, the Social Planning Council of Metropolitan Toronto is an independent voluntary community organization dedicated to research, planning, policy analysis and advocacy on the social, economic and cultural issues which have an impact on the conditions and quality of life of the residents of Metro Toronto. The council works primarily from a Metro-wide basis, but also frequently in conjunction with its social planning partners outside Metro's boundaries, in the GTA and across Ontario. It is this interest in larger planning issues which brings the council before the standing committee with respect specifically to revisions to the Planning Act and the proposed Ontario Planning and Development Act.

The Greater Toronto Area Social Planning Network was organized in 1991 because the member organizations recognized that growth and development in the GTA necessitated more regular information exchange and even joint planning activity on social development issues in the region. In late 1991 and early 1992, the GTA social planning network partners served together on the Provincial-Municipal Human and Social Development Working Group set up by the Ontario GTA office as part of its six-study initiative on a planning framework for the GTA. This resulted in the working group report titled Planning for People and Communities. This report constituted part of a discussion in April 1992 which the GTA social planning network had with John Sewell, chairman of the Commission on Planning and Development Reform in Ontario. The Social Planning Council of Metro Toronto

also submitted a formal brief on land use planning reform to the Sewell commission in February 1993, as did several of our social planning counterparts in the greater Toronto area.

Having established our interest in land use planning reform in the GTA and Ontario, the Social Planning Council of Metropolitan Toronto wishes to begin with a general statement of support for the amendments to the Planning Act and the general thrust of the Ontario Planning and Development Act.

The council congratulates the Sewell commission for its work which has led Ontario to this point, even though we feel that the commission did not give strong enough force and coherence to the integration of social development principles with land use planning, as we stated in our submission to the commission. Nevertheless, the commission's report was comprehensive, well organized and clear in its proposals.

The process for the development of the commission's report was also extremely thorough and open, making the commission very accessible to planning interests and to the general public. In this regard, the commission followed a course which serves as a good model for its own specific recommendations on public involvement in a reform planning process.

The social planning council's primary interest in Bill 163 is with respect to provisions which promote the integration of social development principles and objectives of land use planning. The council released an historical and conceptual treatment of this kind of integrated planning approach in the Social Infopac dated December 1993, a copy of which is appended to this brief for the honourable members' information.

Planning for People and Communities, the report of the Provincial-Municipal Human and Social Development Working Group referred to earlier, articulates seven human and social development goals, which are appended to this brief, and recommends active collaboration between human service and land use planners in the public and voluntary sectors. The report also recommends that "the Planning Act be reviewed and amended in light of these recommendations, particularly in terms of human and social development goals."

The social planning council's assessment of Bill 163 in this regard is that:

(1) The bill makes major strides with respect to provision for and encouragement of public participation in the land use planning process which is in accordance with social development principles of community empowerment and participation.

(2) The bill incorporates general reference to social development objectives in the language of the two acts, but mostly as secondary considerations and with little reference to application and few expectations with respect to municipal action.

Regarding public participation in the planning process, the council heartily endorses the provisions for amendment to the Planning Act, and especially section 4 of the Ontario Planning and Development Act.

One further provision to enhance both acts would be

specific reference to the participation of organizations in the non-profit voluntary sector which are not either "public bodies" nor strictly "private interests" in the typically understood meanings of the terms. This is an important consideration to begin burning into the consciousness of the public authorities and professionals who control the planning process both provincially and municipally. For example, most recently, social planning in the voluntary sector was invited as an afterthought and with only two days' notice to a Ministry of Municipal Affairs consultation on guidelines on linkages between social human services and land use planning.

Therefore, our first recommendation: The social planning council recommends that specific reference be made to organizations in the non-profit, voluntary sector in the sections of the two acts which deal with public participation in the planning process.

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The social planning council supports the amendment in section 2 to the Planning Act which accepts the Sewell commission's recommendations that areas of "provincial interest" be specified for the formulation of municipal official plans. The council is also encouraged that six of the specified areas of provincial interest in section 2 relate to social development considerations, also suggested by the Sewell commission.

Notably, however, the amendments to the purpose section of the Planning Act, section 1(1), do not include the Sewell commission's original recommendations, which were much stronger statements in terms of linking land use with social development objectives. Therefore, the council recommends adoption of the commission's original recommendations for part of the purpose statements of the Planning Act, specifically:

"(a) to protect and conserve the natural environment and foster the wellbeing of ecosystems for the benefit of present and future generations; and

"(b) to foster economic, cultural, physical and social wellbeing."

Section 9 of the amendments to the Planning Act repeals section 16 on the contents of the official plan and substitutes the following:

"An official plan shall contain the prescribed contents and,

"(a) shall contain goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it, or an area that is without municipal organization."

While the inclusion of "social, economic and natural environment" considerations in this section is encouraging, it is clear that land use planning is the driving force here and that these other considerations are secondary. The problem with this approach to integrated planning is that social, economic and environmental considerations are limited to effects when we would argue that they could well be considered to be the purpose or intent for some physical planning. Therefore, the council recommends a statement on the contents of official plans in this section which suggests a more balanced relationship

between physical and social, economic, and environmental planning considerations.

Further on the contents of the official plans, clause 16(b) on the "description of the measures and procedures to attain the objectives of the plan," including provision for public participation, is not a requirement of the official plan. Municipalities "may" include these descriptions but do not have to do so. Therefore, the council recommends that the language of this clause be changed to "shall contain." This is the only way in which public involvement will be safeguarded and local experience in the development and application of social and economic indicators and measures related to land use planning decisions will be gained.

As a new act, the Ontario Planning and Development Act is a little less encumbered by the primacy of physical planning compared to the Planning Act. In subsection 2(3), the minister is empowered for a development planning area to "(a) cause to be carried out an investigation and survey of the environmental, physical, social and economic conditions affecting the development planning area or any part of it."

This is a noticeably more integrative planning approach than the Planning Act's provision for the primacy of physical planning. Social, economic and environmental factors are not subject to the effects of physical planning, but are included at the outset as part of the overall assessment of the development planning area. Section 3 builds on this integrative approach, referring to "policies for the economic, social and physical development of the area" equally, but again a "may" rather than a "shall" statement introduces this section. The council recommends that the specified contents of a development plan in section 3 be a required, not discretionary, matter.

What is really needed in Bill 163 is clear provision for social impact assessment in development plans in the same way that environmental impact assessments are done. The social planning council recognizes, however, that such a provision would be perceived as conflicting with the current objective of "streamlining" the planning process. These first tentative steps of incorporating social development objectives into the legislation will probably have to suffice for now.

As our Social Infopac indicates, some municipalities across the province, including Metro Toronto, have already begun to articulate broader social, economic and environmental objectives in their official plans. The real challenge over the next few years will be to translate general statements in local development and official plans on the integration of social development and land use planning into practice and application. The Social Planning Council of Metropolitan Toronto believes this is where more research and development are required in order to identify reliable social indicators for purposes of both monitoring plan implementation as well as designing social impact assessments for proposed new developments. In this regard, the social planning council supports the Sewell commission's recommendation that research and information become one of the province's responsibilities under an amended Planning Act. The more effective and coherent integration of social development

principles into land use planning and the identification of relevant indicators and measures should constitute one part of the needed research agenda.

The council also supports the commission's recommendation for a "state of the environment report" at the upper-tier level at five-year intervals in which "municipalities should identify and select key indicators of local relevance to their natural, social, cultural and economic environments and then establish procedures for monitoring them."

These provisions are not evident in the amended Planning Act or the new Ontario Planning and Development Act, although section 19 of the latter does give the Minister of Municipal Affairs opportunity to provide financial assistance for such research.

Therefore, in conclusion, the Social Planning Council of Metropolitan Toronto recommends (a) that the ministry require upper-tier municipalities to produce the state-of-the-environment reports at five-year intervals, minimally, as originally recommended by the Sewell commission; (b) that the ministry provide research support to the community for the further development of the integration of social development and land use planning; and (c) that the learning from both the preceding be used for future amendments to the two acts under consideration in order to strengthen the incorporation of social development objectives in land use planning policy and practice.

Mr Alvin Curling (Scarborough North): I think this is a very sound presentation and has some of the things that we've been hearing across the province about the exclusion of many of the areas that the Sewell report had presented.

As a matter of fact, the concern that they have too is about the policy. It seems to me that the review of the plan is okay, but the review of the policy is not there although the Sewell report had indicated that somehow, maybe every five years, I think this was the time frame, a policy should be reviewed. You know, especially in your area of social work and social science, the dynamics of the changes. What would be your comment, first, that the government feels that the policy is not up there for any debate, that it cannot be debated upon at all? What is your feeling about that after review of this policy?

Mr Clutterbuck: You're referring to the development of the comprehensive set of policy statements that are now—there's an implementation guidelines task force for it? We think that in this field we are, in our area of particular interest, social development, in maybe the same place that the environmental movement was 20 or 25 years ago. So it would be good to make a very strong effort at defining what we think is good and important policy in this area, but certainly we don't assume that it's going to be definitive and all-enduring into perpetuity, that this is the kind of thing which should be periodically reviewed, based also on our ability to actually develop measures and indicators that show our ability to measure progress in achieving these policy statements.

So five- or six-year reviews of the policy statements, we think, would be a good idea as well. We're just learning, in other words, in our area.

Mr Curling: So therefore I'm hearing you say that the government should and must review that policy within the next five years, but again the policy is not up for grabs.

You seem to say too that the progress of the environmentalists within this and the inclusion is well stated, but somehow on the social aspect of it, it is not at all. It's being more or less ignored although even the Sewell report had indicated that way.

We have been hearing all across the province that, going along with the Sewell report, if they had actually adhered to some of the recommendations, even 50% of that, they would be near addressing some of the needs out there. But again, we are not able to understand yet why the government would include, as some of the quotations from some of the members here on the government side have said, only a third of it.

Mr Clutterbuck: We feel that there is progress in this bill, that in fact there is incorporation of an awareness of and some attempt, especially in the new Planning Act, to make some provisions to broaden land use planning beyond the economic imperatives of development. So there is progress and we even had some stronger recommendations for the Sewell commission that it didn't actually incorporate.

We would like to be faster further, but we understand that change takes a long time and that, although we'd like to see improvements and we specified the exact ones for these two acts right now, we're at least happy that there's a beginning in incorporating these concerns.

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Mr Bernard Grandmaître (Ottawa East): As you know, one of the objectives of planning reform was to empower municipalities. In your submission, I don't know if it's an indication of a lack of confidence in municipal planning, but you don't appreciate the word "may," "municipalities may." You would like to have stronger language and have it say "shall."

Mr Clutterbuck: This is with respect to measures, indicators and procedures around the official plan development, right?

Mr Grandmaître: Do you think that by amending the present legislation to say "shall," municipalities would be, let's say, more responsible—if I can use the words "more responsible"—when it comes to planning?

Mr Clutterbuck: I think that it would safeguard the public involvement, because that "may" statement also refers to the procedures by which the contents of the official plan are reviewed. So it seems to us that it's too easy—there's always enough work to do—to let discretionary action not happen. We think the province should actually expect that and we should be documenting what we learn about this across municipalities over a period of time and get better measures and indicators and better ideas of how to involve the public in these important decisions. So, yes, we think "shall" is important.

Mr Curling: Have we got a minute?

The Chair: One minute, we do. Yes.

Mr Curling: One of the concerns that we have and I have too is about non-profits. I think that non-profit

organizations have played an extremely important role, but what has happened now is that the not-for-profit, non-profit—a question was asked with one of the groups to say, "Do non-profits make a profit?" As a matter of fact, the bottom line was, yes. We're talking about the development of housing.

Do you feel that there should be a clear definition of what is a non-profit and then who is delivering it? Because one of the problems we're having now is that those non-profit organizations that are delivering housing are delivering it at a higher price than the private sector. Is there a concern about that at all within your area?

Mr Clutterbuck: Yes. I am aware that there's some issue around that although I don't think there have been good measures or studies done on the comparative quality of the housing that's provided to people. Certainly in terms of housing, but also in terms of human services in general, a good part of the delivery network is by community associations in the non-profit voluntary sector. So we think that it is definitely important for there to be more specific recognition of that in the two acts. There are references to persons and public bodies or private interests being included in the planning process. But since there is such a large network of non-profit community organizations interested in both human services and housing across the province, it would be good to be specific about the role of this sector in helping to integrate land use and social development planning.

Mr Allan K. McLean (Simcoe East): Welcome to the committee this morning, sir. I guess the last statement you made is very important, because I've observed over the last 10 years that municipalities have improved substantially what they're doing with regard to their plans and the impact studies that are taking place. I guess the bottom line is, the municipalities and people such as you want clear guidelines so that they know what they have to do, and that's where we seem to run into the problem when plans go to the MOE. They will be changed, modified, sit on a desk for months, and that's the frustration that municipalities and developers have. I haven't seen a municipality come before us that doesn't agree with strong guidelines for the environment and the impact studies that should be done. But what the problem seems to be is, there's nothing set out, the steps they take to do it. That, to me, seems to be the problem we have.

Mr Clutterbuck: Yes, and that's one of the reasons for proposing that, as the amendments and the new act are implemented, we have to set up a research agenda so that we become more confident about what those guidelines should include. I know the ministry now has a task force studying implementation guidelines. We think the community should be strongly involved in that, and before we are totally confident of our social impact methodologies we should get a better understanding about what are the appropriate measures and indicators, how can we be confident in them, and how do we collect information about progress in this area of land use planning and social development.

So I would argue that it is important to get stronger guidelines, but the community should be involved over the next few years in actually developing them and then

be very confident about our social impact tools and also be confident about the need to make sure the process isn't so long-running that all the vigour and energy around actually doing something in the community are lost as well.

Mr McLean: That's what the public meetings, I would hope, would do: give those people the opportunity to have their input.

But with regard to the five-year intervals, I sometimes wonder—five years is put in there—some could be eight. I see when we review official plans—I was involved in those, years back—it would take three to four years before you even get it to the minister for her to look at, and by the time you got the official plan approved, it was outdated already. So when we look at the five-year—and Sewell had that in his recommendation and it didn't seem to end up in the legislation.

Mr Clutterbuck: Our specific support was for the state-of-the-environment monitoring report at the end of five-year periods, which is almost like an evaluative capturing of what has been learned with respect to social indicators and measures over the five-year period and how in fact social development and land use planning have been well integrated. We know official plans take their time to develop and be approved, we understand that, but from the point of approval there should be these five-year reviews in terms of the state of the social environment in particular. That's our interest.

Mr McLean: What's your view of "be consistent with" rather than—what does the old one say?—"have regard to"?

Mr Clutterbuck: With respect to which particular—

Mr McLean: Well, in the bill, it's "shall be consistent with policy statements set out by the ministry."

Mr Clutterbuck: The responsibility, from our point of view, and the provincial interests from, we think, the public's point of view is that the ministry does set out policy parameters and principles and values that it is important for municipalities to use in formulating their own official plans. In fact, we think some municipalities are ahead of the province in terms of actually trying to do this, incorporate this; Metro Toronto, Halton region, for example, are two in particular. In fact, I think some of the work some of the local municipalities have done maybe even has partly defined the province's job for itself. We think it's an appropriate role for the provincial policy statements to be made and for municipalities to have to adhere to them. We think it's stronger than just, "Consider them and do what you want."

Mr McLean: Thank you for appearing this morning.

Ms Christel Haeck (St Catharines-Brock): Thank you, Mr Clutterbuck. Your statements actually fall very closely to the healthy cities committee that exists in my own community and in fact reflect some concerns that they are echoing almost on a daily basis.

In your appendices, on page 6 there's a quote with regard to the World Health Organization, if I remember correctly, the third item, which is, "Health should be monitored by physical, social, aesthetic and environmental indicators of wellbeing." As far as this review that

you're referring to, I think that groups like yours, and obviously what healthy cities does, they do it on an on-going basis rather than when the five-year mark rings and now all of a sudden we gear up to action. I think the kind of contribution that groups like yours really make is the fact that you can provide ongoing research and input into the process, and I think what you're asking for, if I may be so blunt, is that you be regularly included in the process.

Mr Clutterbuck: That's for sure. I wasn't suggesting that we hibernate for five years and only appear on the scene with an interest at five-year intervals but that there's an ongoing data collection process, design work around social indicators, that the community is involved. One of the major resources we feel that's in the community is support to work with governments, municipal and provincial, in this regard: our social planning councils, district health councils, the public authorities as well.

I'll give you one specific example. I know of one local municipality here in Metro Toronto where there is a subcommittee of the municipality that includes social planning people to review the social impact of new developments. That's a good sign, but they tend to get these development plans two days before they're expected to make a report and make recommendations, and they actually are working overnight in order to do what's really an impossible task of doing a social impact assessment of a new development with two days' notice. So there's progress in terms of some of the mechanisms being set up; there's not the proper respect for the need for careful study and consideration and proper input.

Ms Haeck: No, and I fully agree. In fact, we had the situation in St Catharines, with losing our older buildings almost on a daily basis of late, that the local LACAC has finally been given the opportunity to review demolition permits so that they could record what's happened to some of those older homes prior to their being destroyed. I suspect that for you, the urban forum—be it the heritage buildings, which usually allows for some housing projects to be undertaken—is as important to you as the green space; all of this is really part of your province, so to speak.

Mr Clutterbuck: It's not only important to me generally, but it's also important to me because I'm a native of St Catharines.

Ms Haeck: I thought you might be, actually. There are a few Clutterbucks in St Catharines. Anyway, I'll defer to my colleague.

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Mr Drummond White (Durham Centre): Thank you very much, Peter, and I'm very pleased to see you coming before the committee, as I'm sure you'd appreciate. Some of the issues that you bring up, the negotiation obviously between municipal planners and a not-for-profit group like your own, it would be an interesting dialogue over time. I'm interested also in the issue of the tools you talked about, the evaluative tools and also the framework tools for, as you were saying, the social impact studies. I'm wondering if you could elaborate a little bit upon the work that's been going on in that area and what needs to happen.

Mr Clutterbuck: We've actually done a proposal on a state-of-the-art study of what is actually happening in Ontario at the local level. We've identified, as indicated in the Social Infopac, seven or eight communities where people are really struggling with this and trying to define their own policies and their own notions of how integrated planning occurs and identify what the indicators are and how you collect information related to those indicators over time.

We propose that what we should do first of all is go to the ground, where people are doing it in local communities, and do a state-of-the-art study that would lead, we would hope—our plan is that over a nine- or 10-month period we could learn enough from community groups, that we could work together with people from all of those communities to just start to define more systematic tools and instruments and resources for a more standardized approach.

We think things are at the indicator development stage right now, not at the tool-and-resource development stage, and we need to move, over the next year or so, especially if parts of this are going to be incorporated in the act, into developing stronger assessment tools. That's why we're not actually recommending to include right now mandatory social-impact assessments that we're confident are going to be in place for all time. We have to develop these tools over the next year or so.

Mr White: So what you're saying is that presently the act allows you to move forward in those areas.

Mr Clutterbuck: We've indicated where we think it could be strengthened in that regard, but there's a beginning point here; there's a place to start, in that regard.

The Chair: Mr Clutterbuck, we thank you for coming and thank you for participating in these hearings. But before you leave, Mr Hayes wants to clarify a matter.

Mr Pat Hayes (Essex-Kent): In regard to talking about the public input there and changing "may" to "shall," I can understand where you're coming from, but the fact is that there are minimum requirements all through the act itself that do require public participation. So it is required all the way through the act. The other part, when you're talking about your measures and procedures, some of the descriptions, the municipality could actually implement this into the official plan. So it allows them to do that, but at the same time public participation is required all the way through on all procedures.

Mr Clutterbuck: This is the section on contents of the official plan, and it seems to us, as you say, if the spirit is of inclusiveness and public participation throughout, if the first statement in that section refers to what should be contained in the official plan, the second, it seems to us, should just logically and naturally be mandatory rather than discretionary. We don't understand. In fact, that is one of the major inconsistencies, it seems to us, in the act itself, that throughout there seems to be the means by which this can happen; why shouldn't we expect municipalities to actually incorporate it as a compulsory matter in their official plans?

Mr Philip McKinstry: The reason that section was put in is because it's sort of a legal, technical matter. The

act, first of all, as Mr Hayes indicated, is very clear on the fact that in every process a municipality undertakes there has to be minimum public participation. But the older Planning Act, the 1983 Planning Act, allowed municipalities to set out alternate measures, so therefore we felt it was important to indicate to municipalities that they could still have measures in their official plans. But whether or not they have these measures in their official plans, they still have to comply with the minimum participation requirements under the act.

So if they're doing an official plan or a subdivision, there are very clear minimum participation requirements, and public participation is very important in terms of the Planning Act.

Mr Clutterbuck: The "may" part of that subsection refers, though, to public participation procedures also. That's how I read it. The verb actually applies to the whole subsection.

Mr McKinstry: Right. It talks about "they may bring in," so they could, if they wanted to, bring more stringent public participation into their official plan. However, whatever they do in their official plan, they are required to conform to the minimum requirements in the Planning Act for public participation.

Mr Clutterbuck: I think we might challenge them, because we're also talking about measures and indicators in that section, and it just does seem to us to be inconsistent. The only way we're going to learn how to do this integration better is to actually insist that municipalities attend to it, not only make the nice general motherhood statements in the official plan but actually indicate how they're going to measure that and chart their progress and what ways the public is going to be involved. So we feel that would be an important change.

GREATER TORONTO AREA MAYORS' COMMITTEE

The Chair: We invite the Greater Toronto Area Mayors' Committee, Mayor Peter Robertson.

Mr Peter Robertson: Good morning, Mr Chairman and committee members. This is my second time before you. The first time, last Tuesday, it was acting on behalf of our own municipality and today it is to speak on behalf of the greater Toronto area mayors. They consist of 30 different municipalities, stretching from Whitby on one side to Burlington on the other. We had an extended consultation process with the staff and also with each other and it was no mean feat that we came to a consensus. So we hope you'll listen to me today even better than you did the last time, because I represent such a large population with a consensus.

Our presentation will go in three steps. John Marshall, who was leading the technical part of the review, will speak first, then Bob Johnston, a consultant with Mississauga, will highlight something about the parkland dedication and then I'll conclude with a statement on part IV of the Planning Act and the fill regulations. We'll start with John.

Mr John Marshall: I'm here to present to you a summary of the GTA mayors' response to Bill 163. A formal response with respect to the planning and development reforms has been submitted to you in a 35-page

report. This was adopted by the GTA mayors on September 16, 1994. I provided copies to Ms Bryce this morning and I'm sure you'll have access to them.

The GTA mayors made many submissions and participated extensively in the deliberations of the Sewell commission and also with respect to the consultation paper, *A New Approach to Land Use Planning*, and also have actually met with staff on several occasions with respect to the provincial policy statements and made very detailed submissions with respect to them. We've also met twice with Mr Philip to express our concerns with the Sewell commission and the proposed statements.

With the exception of nine points noted in our submission, the GTA mayors generally support the proposed revisions to the Ontario Planning and Development Act and the amendments to the Planning Act and the Municipal Act that deal with planning and development reform in the province, for a number of reasons.

First of all, the province is now stating provincial policy in areas of provincial interest. We think the areas of interest are more extensive than they should be, but they are finally stating those policies and getting out of the process of approving local official plan documents.

Lately, the province has tried to streamline the whole process of approving these documents, but we feel the best means of streamlining is just for the province to get out of the game and leave the local planning to the local municipalities, particularly in the GTA. Also, there has been some initiative to delegate the commenting authority from, for example, the Ministry of Natural Resources to the conservation authority, and we feel this is a step in the right direction.

I think the key point is that the province will delegate the approval of local official plans, secondary plans and related amendments to the regional municipalities, thereby keeping the approval of these documents at more or less a local level. If the proposed legislation is passed as intended, regional municipalities will be able to delegate the approval authority of plans of subdivisions and condominiums to local municipalities. We heard an amendment from Mr Hayes last week. If that amendment is made before third reading, that'll certainly resolve our concerns in that area.

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The proposed amendments will provide the minister and the Ontario Municipal Board with the ability to expedite consideration of legitimate appeals and to refuse those that have no merit. Too long, parties have been able to hold up the planning process and abuse it through making appeals to the OMB and either withdrawing at the last minute or extending hearings to a really ridiculous degree.

We feel it's a positive step that local councils will be enabled to hear appeals to committee of adjustment decisions. If somebody wants to pursue that further, they can make a rezoning and have access to the Ontario Municipal Board. These are very detailed matters and we feel they can be handled at the council level.

The fact that a development permit process will be enabled will provide local councils and staff much more

flexibility in dealing with zoning bylaws, rather than having to make amendments for the very minuscule changes in requirements and restrictions or uses.

Finally, the local councils will have expanded powers dealing with the dumping of fill and the alteration of grade. Certainly, we would like that to be expanded, but generally we feel it's a step in the right direction, really, the province's withdrawing from the administration of local plans in the province.

The GTA mayors' nine areas of concern or objection are set out in detail in table 1 to our submission. I'll go through those briefly. These concerns can be alleviated by the following amendments being made to Bill 163 before third reading.

First of all, proposed section 2 to the Planning Act has 16 areas of provincial interest set out, plus the final killer, "any other matters prescribed." We feel that the proposed section should be amended to indicate that the province has a broad interest or a general interest. Otherwise, it's just an invitation for the province to get involved in local decision-making, where we really feel that the basic direction is to go the other way and not interfere with local councils.

Secondly, that the proposed subsection 3(5) of the Planning Act be revised to indicate that decisions of a municipality shall be consistent with the intent of provincial policy. Our feeling is that this gives us some latitude for interpretation when our decisions are going to be evaluated by the OMB or other bodies. This is consistent with the consultation paper in December. Certainly, it was tightened up since then and we agree with the original proposal. We think it's an improvement on the words "shall have regard to," which basically means you can look at something and do what you want to do.

Third, that proposed subsection 17(7) be revised to require that the preparation of an official plan is mandatory by local municipalities in regional municipalities that have a two-tier planning system, and that the preparation of the official plan is a prerequisite of the delegation of plan of subdivision approval to local municipalities. There was some concern expressed that by doing this, it would make planning mandatory by all small municipalities, townships across the province. We feel that separating out the GTA where the two-tier system exists—and also in areas like Ottawa-Carleton—would resolve this problem just by recognizing that two levels of sophistication exist in planning in the province.

Basically, we're concerned with the whole idea that local plans are permissive. That they "may" be produced by local municipalities really denigrates the planning process, particularly in the GTA, where councils have highly sophisticated planning and development approval processes and have allocated major resources to planning: human resources, information technology, what have you.

The fourth point is that the time period for the processing of a zoning bylaw be amended from 30 to 150 days rather than 90 days. I think any developer will tell you that 150 days for the processing of a zoning bylaw amendment is a very quick approval process when you consider that public meetings require the technical review etc.

The fifth point relates to the fact that we would like appropriate sections of the Planning Act and the Ontario Municipal Board Act to be amended to establish time limits on the Ontario Municipal Board's consideration of appeals from the date the appeal is received. Because it takes so long to get a hearing held and to hold a hearing and to get a decision, it's an automatic incentive for those who want to delay development, oftentimes commercial developers who are keeping competition out of the marketplace, just to throw an appeal to the OMB and extend the process for two or three years.

We feel that the following time limits should be placed: first of all, for holding a pre-hearing conference, three months; commencement of the hearing, six months; and issuing of the decision, 30 days from the adjournment of the hearing, except for very lengthy hearings. This will provide deadlines on the Ontario Municipal Board in the same way municipalities have deadlines and will force the board to maintain staff resources necessary to hear the objections expeditiously and issue the decisions very quickly.

Sixth, we feel that subsection 41(8) of the Planning Act should be expanded to authorize local municipalities, in addition to regional municipalities, to require conveyance of land for public rights of way for transit. As you know, many GTA municipalities have the responsibility for transit and should be able to meet that requirement.

Seventh, that no changes be made to the provisions relating to parkland dedication unless concurrent changes are made to the Development Charges Act, and Mr Johnston will speak to that point.

The eighth change we would like to have made is that Bill 163 be amended to include a proposed amendment to the Planning Act that enables the province, regional municipalities or counties to delegate the approval authority for plans of subdivision and condominium. This will be accomplished by the amendment that Mr Hayes proposed last week.

The ninth point, that proposed section 223.1 of part XXVII of the Municipal Act be amended by adding provisions that enable councils to regulate tree-cutting, vegetation removal and the removal of topsoil and peat, in addition to the dumping of fill and grading. Mayor Robertson will speak to this in more detail.

In summary, we feel that the proposed changes will substantially improve the planning and development process in the province by enabling municipalities to carry out their business without a lot of interference at the provincial level. We feel that this empowerment will enable us to deal more effectively with the various aspects of the process that predominantly involve local communities of interest.

Planning is a local exercise and municipalities are held accountable by their residents for planning. The involvement of other levels really, frankly, isn't appreciated by them and they can't understand why things take so long, because some provincial staff had to get involved in doublechecking and triplechecking the work that's done by competent local officials.

Mr Robert Johnston: The GTA mayors Friday, at

their committee meeting, passed the following resolution. It was moved by Mayor Robertson and seconded by Mayor Sainsbury:

"Whereas the GTA mayors support the principle of fairness and equity in assessment of parkland dedication through either land dedication or cash-in-lieu contributions, therefore the GTA mayors request the minister and the Premier to defer the proposed amendments pertaining to section 42 in Bill 163 until adequate consultation has occurred with municipalities; and further

"That the GTA mayors request the provincial facilitators' consultation committee to conclude and agree upon the wording implications of parkland dedication policy before satisfactory legislation is drawn up; and further

"That a clause on retroactivity must be included in the agreed-upon formula."

The impacts of section 42 will mean the shift of funding for parkland revenues from the Planning Act receipts to development charges bylaw or property taxes. There will be a negative impact on the flexibility to plan and provide for parkland and, to preserve parkland standards, municipalities may require developers to dedicate land at the maximum density allowed at registration or require all cash in lieu of building permit issuance, which will badly damage the process for planning and providing of parkland. In particular, the city of Mississauga, because it's been using a process since 1983, will lose approximately \$11 million in cash-in-lieu payments as the legislation fails to address the issue of retroactivity. But at the same time, there will be a windfall of \$11 million to developers who have only made their first stage in the payment.

The GTA mayors, again, support the principle of fairness and equity. They believe that the provincial facilitator, in working with the working group and the municipal representatives, received consensus that yes, there were changes required to section 42, but it was the understanding that before the legislation was to be implemented, there would be consultation with that working group again. That consultation hasn't occurred as of this time.

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Mr Robertson: The last items I'd like to highlight have to do with part IV of the Planning Act: tree removal and the removal of vegetation. In my community there have been instances where the developer will go in and cut down the trees just prior to the application. There is no present legislation at the municipal level that indicates that we can do anything about that. Within the environmental thrust of this particular bill, we would hope you would put that in.

The second thing, it speaks to fill but it does not include the removal of topsoil or peat, and so in the definitions within the legal and technical wording of this, we ask you to include the words "removal of topsoil and peat." But most of all, as landfill has changed significantly in Ontario, where municipalities do not allow a lot of products to go into the landfill site, clean fill needs to be defined and broadened.

In about two hours' time I am going to an environmental hearing, as a witness, where a business has piled

debris from building sites 30 feet high, rubble and things that are traditionally moving out of the public sector and into the private sector. Can you imagine owning a little business beside a pile of rubble 30 feet high, with rats consistently running out of it to the neighbourhood? At the present time, the municipalities cannot deal with changes in grade of property and cannot deal with the issue of dumping fill in an outside storage situation. So we appeal to you to include those changes of definition to anticipate the changes that are happening in the business section of our community vis-à-vis landfill.

I'll leave it there, Mr Chairman. Hopefully there'll be some questions that we might clarify.

Mr McLean: The first question I'd like to ask is with regard to subsection 41(8) of the Planning Act, that "(site plans) should be expanded to authorize local municipalities...to require the conveyance of land for public transit rights of way." Are you talking about highways, or what are you talking about?

Mr Marshall: The transit rights of way could involve a number of areas related to transit. They could be additional dedicated widenings related to dedicated lanes for transit, or pull-off areas or actually dedicated rights of way for transit. We feel that there is a whole range of technologies out there related to transit that the municipalities are required to deal with and we feel we should have the powers to require rights of way as necessary for expanded transit use in our areas.

Mr McLean: We've heard from a lot of municipalities and we've heard from a lot of them around Metropolitan Toronto, but I haven't seen in many of the briefs I have had the opportunity to review any major changes of road patterns. I drove Highway 2 to get to Oshawa and it was a nightmare. There are all kinds of subdivisions and plans being approved and probably the same in Brampton, and where is the major thrust that's going into having the roads to accommodate these people who are in those subdivisions? I don't see it. What is the GTA mayors' recommendation with regard to that?

Mr Robertson: I think John has said we're asking for that ability to deal with it at the municipal level. On our Queen Street, for example, where we're doing an intensification, we're planning to do a dedicated bus lane and that will require our ability to pick up land, as properties sell and resell, in order to do that.

Mr McLean: What is your further definition with regard to the undefined concept of natural corridors? Is that valley land? Is that land that's in conservation authorities? What's your definition?

Mr Marshall: The whole concern with natural corridors came out of some of the municipalities dealing with the Oak Ridges moraine. I didn't participate directly in those discussions. My understanding is that the provincial staff involvement in the process was starting to expand the natural corridors to include not just valley lands but changes in topography that link different features and were frankly becoming very small-l liberal in their interpretation of what constitutes a natural linkage or a corridor. Something right across table land that they thought was significant in terms of linking, say a valley land and a marsh area, they would say, with a wave of a hand,

"That's a natural corridor and we want you to preserve that."

We felt that it was becoming very arbitrary, the grabbing of table land to satisfy a number of environmental features and not just protecting the actual critical features, such as valley lands and marshes etc.

Mr White: Thank you, Mr Robertson; an excellent presentation, very comprehensive and I think it reflects the level of sophistication that the GTA mayors' committee has. I certainly have a great deal of personal experience with that mayors' committee, representing the city of Oshawa, which I believe is the easternmost fringe of that group.

You have so many excellent recommendations that it's really very hard to deal with all of them all at once, and this is an awful lot of work that I'm sure my colleagues will attempt to digest just as well as the government will.

I would like to ask you a question. In your opinion, when you make reference to what's called a Trees Act, the vegetation removal act, which would be a permissive piece of legislation allowing municipalities to proscribe the elimination of trees etc, in the GTA, would most municipalities be wishing to assume those powers?

Mr Robertson: I think so. From the consensus across the GTA with the mayors, they've asked for that. It would be obvious to require a tree study and you'd only preserve the species of tree that had major value and vegetation that had, but at the present time we have no legislation that can do that.

Mr White: Would it be difficult to train the personnel involved to be officers, to be able to make those kinds of judgements?

Mr Robertson: I don't think so. I know, in our municipality, we have three people on staff who are specialists in that particular area, where they were trying to feed the trees in the park, for example, to extend their life, to deal with the diseases of trees that might happen and might wipe out some beautiful species. I know from our own experience, we do have that staff on hand.

Mr Marshall: The municipalities—I know Brampton in particular, since 1978 in its official plan, has identified all the woodlots beyond the existing development and put them in a number of classes in terms of whether they're worthy of preservation as part of parks or being worked into the development. So the level of sophistication, not only on our staff but also by consultants whom we hire to set out these policies, has created a situation by having those powers just to enable us to follow through and preserve good stands of trees within development and naturally compensate the developers fairly for that as part of the parkland dedication.

Mr White: What you're saying is you'll be up and ready very soon then, if you had those powers?

Mr Robertson: Absolutely.

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Mr Grandmaitre: My question is concerning the committees of adjustment. As you know, their decisions will be final. You cannot appeal their decision to the OMB. Do you think more and more developers will go for a zoning change, which can be appealed to the OMB,

rather than going to the committee of adjustment?

Mr Marshall: In my view the developers will go the committee of adjustment route. It's far quicker to get an initial decision; it may take a month versus three to get to council, and frankly there aren't that many appeals of the decisions of the committee of adjustment. They can be dealt with quickly. In my experience, I would say there would be a very few cases where a particular applicant would go the rezoning route after having gone that other route, because clearly the committee of adjustment and council at the appeal stage would have considered all the planning merits of it. There are extensive technical reports accompanying any decision on an application, so I really don't see that as being a major factor in creating additional paperwork.

Mr Grandmaitre: What are your thoughts on the new wording in the legislation that official plans "shall be consistent with" and "provincial interest"? What are your thoughts with this modification to the Planning Act?

Mr Marshall: As we indicated in one of the points, we feel that the proposed wording should be revised to indicate it should be "consistent with the intent of," to provide some latitude. My own view is that the words "shall have regard to" are probably the weakest way of expressing an intent that somebody conforms to something. It basically means they shall look at it, and certainly if you go through a process and you're required to "have regard to" and you get to the OMB and you haven't taken serious concern, you're going to end up in the same position whether it's "shall have regard to" or "be consistent with the intent of." But we don't have any fundamental problem with "be consistent with" as long as it's with the addition of "with the intent of", so that you're not tied into every last term and every last word of a policy but have some latitude to implement the intent of that policy.

The Chair: Thank you. We have run out of time. We just don't have enough time. We want to thank all three of you for coming and we thank you for the contribution you have made to this committee.

CITY OF SCARBOROUGH

The Chair: We invite the city of Scarborough, Mayor Joyce Trimmer.

Mr Curling: The great city of Scarborough, that is.

The Chair: Big city. It's a big country. Welcome, Mayor Trimmer.

Ms Joyce Trimmer: Thank you very much.

The Chair: If you don't mind introducing the lady beside you.

Ms Trimmer: Judy McLeod is—I never get the title right.

Ms Judy McLeod: Director of strategic planning for Scarborough.

The Chair: Please begin any time you're ready.

Ms Trimmer: Just to give you a little background on Scarborough, it is a city of over a half-million people with professional staff and a commitment to responsible land use planning. We've shown our commitment to the environment through such activities as our initiatives to

save the Rouge Valley and through private legislation to control dumping of fill, tree cutting and drainage in privately owned ravines. Anticipating the province's streamlining initiatives, in January of this year, Scarborough council adopted a new procedural bylaw and a new set of procedures to streamline the planning process that provides for a better level of public involvement and substantially exceeds the requirement of the new legislation.

Scarborough supports the cornerstones of the provincial planning reform package: empowering municipalities, providing environmental protection and streamlining the planning process. There are many useful and positive actions which will help to streamline that process, such as adding time limits to the approval process at the approval authority level and removing the right to appeal minor variance decisions to the Ontario Municipal Board, but while we support these objectives, it is clear that the new legislation falls short of making the changes that are needed to streamline the process and to get this province back on the road to economic vitality.

I support, and my council along with other Metro-area municipalities support, the decision to not delegate approval of the local municipal official plans and official plan amendments to Metropolitan Toronto. Metro claims to have been isolated and treated differently from other regions that have received delegation approval. Well, the truth is that Metro is different in many, many ways. Indeed, regional representation is such a hodgepodge and so confusing and inconsistent that even the staff of the Ministry of Municipal Affairs are unable to explain or summarize the existing structure of representation without considerable research. I know that because I tried. I thought I could get it all in a neat little package that says, "This is how all the regions work." They said, "It'll take us some time to put it together because we don't know."

It is, however, clear that most regional governments have some element of indirect region-wide political representation, but Metro is specifically different in the following two ways. Incidentally, I know that you heard from the GTA mayors just prior to my presentation now. I do want to make it clear, though, that when you hear representation from the GTA mayors, I would advise you to find out which municipalities they are representing, as I want to make it clear that they do not speak for Scarborough and in fact they don't really speak for any of the municipalities within Metropolitan Toronto unless they have specific permission to do so, and I don't know that they have that. That's not to say that we don't agree on most of the issues.

But getting back to Metro, Metro has direct election by Metro ward. It elects council members on a ward-by-ward basis. As you know, many of the objections and delays that plague the planning approval process result from a local not-in-my-backyard kind of issue.

These should be dealt with through public meetings, negotiation and consultation at the local level. That is the level closest to the people and the issues. The approval authority, if there must be one, should only be there to determine whether the planning decisions have been consistent with the provincial policy statements and

conform to the metropolitan official plan.

Our experience is that direct election has encouraged Metro councillors to be parochial and to take their backyards with them, slightly enlarged though they may be, rather than dealing with issues from a broad regional perspective. There's a temptation to become involved in the details of ward issues. There has been far more interest, both at the political and staff level, in meddling in local issues and much more involvement in a level of detail that goes beyond that of an approval authority. There is the danger of setting up a duplicate public meeting at the local and again at the Metro level. This will not help streamline the planning process but will result in confusion, duplication of public meetings and an overlapping of functions.

We have some examples, as I understand you were given by Mayor Lastman, and we have our own examples. Even, for example, when we go out of our way over a two-year process on a very complicated planning matter to involve Metro and Metro staff right through the process, innumerable meetings with the community, and this particular horror story, you might say, is one where right at the end of a two-year process, we are going forward with the approvals and the Metro commissioner, although his staff's been involved, he gets involved and says: "No. If you don't make this change, we're going to the OMB." We hassled it out at Metro council at length. It was a long debate, and eventually Metro council, fortunately in this case, saw reason, but the whole process was unnecessary. It was a long, lengthy process that need not have happened.

Again, all the arguments used by Metro to gain delegation apply to the cities within Metro. Scarborough is also a "highly sophisticated municipality with a professional staff capable of performing those planning functions required of an approval authority." That's a direct quote from Metro's presentation to you.

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I join with all of the other local mayors within Metro—and I should remind you that it is rarely that we all see eye to eye on an issue, so you really should pay attention to an item where you have all the Metro municipalities seeing this in the same light—that we wish to emphasize to you that we have the resources, we have the professional staff, we have the expertise and we have the commitment to a responsible, streamlined planning process which should enable the province to confidently delegate approval of official plans in their amendments to area municipalities within Metropolitan Toronto.

The province should take the bold step of really empowering municipalities and streamlining the process by delegating that approval authority to the area municipalities.

As well, I can think of no reason why subdivision approval has not been delegated to cities such as Scarborough. We are expected to continue to follow the cumbersome process of receiving applications, circulating applications for plans of subdivision and condominium, holding community information meetings and public meetings, liaising with agencies including Metro and developing conditions of approval. We must then forward

our recommendations to Metro to undertake the actual approval. Again, this takes time and duplicates effort when the city has the resources necessary to grant approval. Again, in those areas, Metro is becoming more and more involved in the local issues.

The major issue facing cities such as Scarborough is economic recovery. Bill 163 and the accompanying policy statements do little to spur economic revitalization.

Policy statement B does state that communities should be planned and developed to provide opportunities for a diversified economic base which supports a healthy and stable economy and enhances employment opportunities. It encourages municipalities to prepare economic development strategies and to use existing infrastructure efficiently. These are fine objectives, but until the province takes action to resolve tax inequities between Metro municipalities and the surrounding regions, they are only so many words.

To quote from our June 1993 submission to the Fair Tax Commission, a recent survey found that 53% of businesses relocating from Scarborough gave taxes as one reason for leaving, but 30% of the businesses relocating from Scarborough gave taxes being too high as the sole reason for leaving. And where are they going? Of the businesses surveyed, 77% moved to other cities in the GTA. Inequities in the tax system are forcing us towards an American-style system where successful businesses migrate to the outlying regions at the expense of inner cities. And all the planning in the world isn't going to keep businesses there unless they've got a good financial reason to stay there.

I strongly encourage the province to take heed of its own policy statements. If it is your intent to work with us to reduce urban sprawl and encourage intensification—and we do agree with that, by the way—and efficient use of our existing infrastructure, please give us the tools with which to do it.

While the proposed vision of planning in Ontario is intended to empower municipalities to take greater control of the planning process, many of us have found the legislation and accompanying policy statements, the policy statements' accompanying regulations and the mandatory contents of official plans to be a much more prescriptive, regulatory and top-down approach to planning than we now have.

It will fall to municipalities to come to grips with the guidelines, to determine the meaning of "significant" as it relates to ravines, woodlots, natural corridors etc, and to weigh the merits of six policy statements which must be read together, with no one policy statement having priority over the others.

The proposals do not implement Mr Sewell's recommendation to establish a lead ministry to resolve issues and priorities among ministries, and quite frankly, the lack of coordination among ministries, and the length of time it still takes to obtain ministry responses, has been a big frustration at the local level. Despite all of our efforts at mediation, this is the stuff that lengthy OMB hearings are made of. Rather than empowering municipalities, I fear that it will empower objectors, it will empower the OMB, it will empower the lawyers and the

consulting industry and with, as you know, all of those costs being borne by municipalities, the development industry and, more important, the general public.

Although, let me confirm again, there is a great deal in your proposed legislation that we can support, we do have just these few small issues, but particularly the one for final approval that we do have some problem with, because we feel it will add quite considerably to the lengthy process. We, like you, are trying very, very hard to shorten the process and to get on with some good development in this municipality.

Mr Anthony Perruzza (Downsview): I appreciate the comments you've made here this morning, Mayor, but everyone—the six municipalities and many of the people I've spoken to—essentially say the same thing. You sort of keep the status quo. But we have big problems and you talked to a couple of those problems. You talked to tax inequities. Maintaining the status quo maintains, quite frankly, the inequities because, as you know, it's a very difficult thing for the province to come along and say, "Well, we're going to somehow, in some magical way, level the playing field." We went through an exercise, and you can understand the difficulties.

We have within Metro over 100 elected councillors and mayors; that's more political representatives—I can't think of any other region. Quite frankly, it rivals the province. There are enormous inefficiencies in the government structures: six tax collection departments, six fire departments, six or seven boards of health. You have uncoordinated planning. The city limits don't stop at Steeles or don't stop on the eastern and western boundaries. Quite frankly, the GTA Metropass was a thing in the works for a long, long time. People can't move on the public transit system between Metro and the surrounding areas. We had to get involved in that process and move people along.

The last thing I would mention is this: At a time when Metropolitan Toronto should be thinking broader than its own boundaries, I heard one councillor at Metro say in a televised debate—unbelievable, in a televised local debate—that he would not support the extension of the Spadina subway to York because somehow it would pander to the interests of York region. This is the absurdity and the kind of thing that we're dealing with.

So to come here and say, like many other people who have come here and said, "maintain the status quo," quite frankly, the status quo is not working. I'm not saying that in some way someone should come along and either do away with the local councils or do away with Metropolitan council, all I'm saying is the current system, irrespective of the planning changes that are being made, isn't working.

I feel there's a deep, dark, black hole in many of the leaders in Metropolitan Toronto—many of the mayors who are not coming before this committee and making recommendations to that effect, recommendations that would streamline the process, that would make things more efficient, that would stop the bickering between councils and between the region and councils, that would make Metro more of a visionary institution as opposed to a very limited parochial one. I understand my time is up,

but I can tell you, I could go on for a long time on this.

The Chair: I know. We recognize that.

Ms Trimmer: Mr Chairman, do I have an opportunity to respond to that?

The Chair: Yes, of course.

Ms Trimmer: The gentleman has hit on a topic that's very dear to my own heart and I agree with a lot of what he was saying. But, first of all, we are addressing Bill 163, which is dealing with planning, so I was dealing with planning. We do know our business in planning. We know how we can cut corners and how we can shorten the process.

1050

However, you went very widely into governance and I should tell you that I am a big proponent of review of the whole system. I couldn't agree with you more. That is the major problem we all face. There is much too much government; there are too many levels; the taxes, as a result of all those levels, are much too high. But when I have proposed and I have stood up and made motions at Metro council and indeed, when we had our summit, when Metro had a summit meeting and you had a number of ministers present at that meeting, and the federal government had ministers there, I was the only mayor who said the time has come to review governance in this region. And you know what the response from your minister was? "Do it yourself."

Interjection: No.

Ms Trimmer: Yes, really, and that should be on tape or on film somewhere. When the area municipalities again requested the province to review the process—because the province is the only one that can really do it, they are the ones who control us all, they are the only ones who can get some action.

Even when Metro set up its own system to review, which it's going under now, you know very well that when one level of government, Metro, is involving discussion with the others, they wanted the province to be part of that process. The province was very reluctant to be part of that process. And so I urge you to be a major part.

When all the yelling and shouting is done, when all the review is done, you know as well as I do that there is only one level of government that makes the decision, and that's this level. It was this level that mucked it up in the first place with its direct election. I'm sorry, it was a different government from yours, but it was Mr Peterson who implemented direct election when the discussion in Metro and the request from Metro was, "Don't do it, it's not going to work." That has been one of the biggest mistakes. The way in which it was set up was a major error. That is where all the bickering started, not before. And when you look at the other regions, you've got different—

The Chair: Mayor Trimmer, I hate to interrupt. This discussion can go on—

Ms Trimmer: Anyway, he got into—

Mr Perruzza: One last comment, Mr Chair.

Ms Trimmer: It's a different issue.

The Chair: I'm sorry. You see, these kinds of discussions—

Mr Perruzza: This—

The Chair: No, Mr Perruzza, it won't work.

Mr Perruzza: This is governance as well.

Ms Trimmer: But it's not—

The Chair: Mayor Trimmer—

Mr Ron Eddy (Brant-Haldimand): It's worse. Look what they did in Ottawa-Carleton.

The Chair: I've got three people here.

Ms Trimmer: Yes, that's right. This is only a fraction of governance.

The Chair: Mayor Trimmer.

Mr Perruzza: Don't start now.

The Chair: Mr Perruzza.

Mr Perruzza: You guys started this, okay. Don't start.

Interjections.

The Chair: Mayor Trimmer—

Ms Trimmer: Set up the review process and get on with it. I'll join you.

The Chair: Mayor Trimmer, I hate to interrupt—

Ms Trimmer: I have said I would support getting rid of some levels, even if it's my own, if it is proven that the most efficient, cost-effective way of going about it is to make those cuts. But you've got to get on with the review and then make the recommendations. Do it.

Mr Perruzza: Thank you. I appreciate that, and that's what we need more of exactly.

Ms Trimmer: I've been saying it for years and nobody's listening, and I bet you don't listen either.

The Chair: I suspect a lot of people don't listen in general. We need to move on. Mr Curling, there are four minutes. Please continue.

Mr Curling: It's typical of this government anyhow, sidetracking the issue. The issue is about Bill 163, not the lecture to the mayor. Let's maybe try to refocus again here.

Madam Mayor, I think your presentation was excellent and with the short time which is given for you to address this wide, omnibus bill, of course, it is not adequate enough—again, the typical way of putting this omnibus bill in and then trying to ram it down and push it through as quickly as possible.

One of the things we're hearing, too, is: Do we really need more legislation, or do we need a system that is efficient, or is it that there's a breakdown in the efficiency of the system? If we get that right, maybe we could save a lot of time and not have legislation and politicians spewing over all of this all the time, getting lawyers to interpret it, and then in the long run the system is again backed down and backlogged and there is a longer process in approval.

Do you think that an efficiency of the system, improving, would go a further way than having an elaborate omnibus thing which the government says it will have and must have by January 1995?

Ms Trimmer: Yes, I do, in many respects, it would be helpful. I believe what we're saying is that if the government of the province—obviously I recognize the philosophies change from government to government but, none the less—if those in power will state their philosophy in clear planning language and require that we comply with it, once the discussions and the debate have taken place you've got to make your decisions, say what you want and then leave it to the municipalities to conform to whatever it is you want.

We'd like to be part of the process, of course, because we do know what happens out in the community. We have a better idea than any other level of government what is happening on the streets, in the parks and on the waterfront, and the people talk to us all the time. We can be good negotiators. But if you have your philosophy on certain issues—as I know you do on housing, on density and those things—if you will work with us to get those standards set and then leave us to have to comply with them. We'll let you know if we don't like them, but if we have to comply with them, we will and we do.

Mr Curling: Again, most of the policies that are put forward by the provincial government or politicians become a spitting match, as we see as we put things forward here. One of the things you've just mentioned is one that I'd like your comment on, especially in housing and the affordability and the policy statement that is made by this government, because we've heard in many other regions that the policy stated there cannot be applied in other areas.

Remember, we're dealing with a provincial policy and maybe what can work for downtown Toronto can't work for Scarborough. The reputation, as you know, of Scarborough is that it accommodated more affordable housing than any other municipality in the entire province. When a policy comes again and says, "Any other new housing must have a sort of percentile addressed to affordability here," what is your comment on that?

Mr Perruzza: Why don't I invite you to Jane and Finch, Alvin?

Mr Curling: Why don't you just let the mayor respond?

Ms Trimmer: We do have concerns with that which we express all the time. This is where we have used a statement which we think is fair, but it is turned around against us frequently and I don't think we're allowed to have it any more; it's fair share. We are strong believers in fair share, because you do reach a point of overburdening the system.

When we are planning for our communities, we want to be sure that we are planning for the density, the children, the schooling, the recreation, the day care; we are strong supporters of those things. If we have a density imposed on us after the fact, after our city has been planned, or areas have been planned, as the perfect community and then along comes another policy that says, "Okay, now you're going to have"—I'll give you one in particular, and that is the basement apartments. That is one where we've complied with all of the rules of planning, and then out of the blue comes a ruling that says, "Okay, open the field, everyone, to anyone who

wants a basement apartment." That can undermine over a period of time, or depending upon what happens—but it has the capability of undermining the total planning process and the costs involved.

That is the kind of thing, and it's not because we are opposed to basement apartments. We're very concerned about them and their safety but I don't want to get into that, that's a whole other issue. But that is an example of how something coming along after the fact, imposes itself on already well-planned communities and must, without a doubt, have an impact upon them which is probably going to be negative.

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Mr McLean: Welcome to the committee this morning, Ms Trimmer. The question I have is: Do you think this legislation before us today will streamline the planning system or not?

Ms Trimmer: Parts of it will and parts of it won't. It depends on your final decision, specifically with regard to the municipalities in Metro having—

Mr McLean: Approval process.

Ms Trimmer: —the approval process. If you don't give the authorities that it certainly isn't going to streamline. We're going to get into so many meetings and so many hassles, it's not going to be funny and it's going to totally frustrate the communities and the people.

Mr McLean: I thought the parliamentary assistant, some time ago, indicated that would be there and that we would be streamlining and that you would get approval. Does the ministry staff agree with that or do they not? Obviously he's not listening. I wanted to ask you—

The Chair: Mr McLean, that's not fair, one of the members was talking to the staff.

Mr McLean: Well, he wasn't listening to me. He can be talking, but he's still not listening. Perhaps I'll ask the question again: Is approval authority going to be delegated to the Scarboroughs of the world and the Metros of this world?

Mr McKinstry: At the current time the subdivision approval authority is delegated to Metro but it is possible for the minister, at his discretion, to delegate that to Scarborough. The act does permit that.

Mr McLean: Okay, so we got the answer, it doesn't permit it. It would be interesting to know what amendments—

Mr McKinstry: It does permit it.

Mr Jim Wiseman (Durham West): You weren't listening to him.

Mr McLean: —are going to be brought forward to amend that.

Ms Trimmer: At the moment it's not and the proposal is that the minister may—

Mr McLean: That's right.

Ms Trimmer: —and who knows what the minister will be inclined to do. I haven't the first idea.

Mr McLean: The 77% of the businesses moving out of your area that you claim are moving still within the GTA area—which areas would they be moving into, the

Metros or the Bramptons of the world; Mississauga?

Ms Trimmer: I guess wherever they can get the best tax deal and it would be anywhere within just—north of Steeles, east of the Pickering town line, just out of Metro. I will tell you also that we have been fighting back by providing service. I will also tell you that I believe no one gives the kind of service through their economic development department as well as Scarborough. We have an excellent team that has been working, and I must tell you that we work with the province as well, as best we can, to keep those businesses in Scarborough. We have had a number of successes, probably more than anywhere else, but it takes one heck of a lot of work on the part of our staff. They are really out there beating the bushes for every reason to persuade these companies to stay and to help them as best we can, and we've kept a number.

When it really comes down to the crunch, it's the dollars. I should tell you that they're still being wooed by the States. I get copies of letters and information that the governors come up here on their raiding trips to get companies going down there. It's still going on. It's tough to combat that when their numbers look so good.

Mr McLean: I want to thank you for appearing this morning before the committee.

Ms Haeck: Possibly one of the staff would like to at least inform the mayor about how you apply for subdivision approval. I know that's something that was in—

The Chair: I'm not sure, Ms Haeck, that would be fair at this moment. We're moving on. Staff can talk to their staff obviously at any point if they want some—

Ms Haeck: I just thought it might be an interesting point for the mayor to keep in mind.

Ms Trimmer: Anything you mention will be followed up by my office, never fear. I'll find out what the process is, but in the end, if it comes to a decision of a minister, it depends on all kinds of things.

Ms Haeck: I thought I'd make her aware of that.

Ms Trimmer: Oh, I'll follow up. Thank you.

The Chair: Mayor Trimmer, I just wanted to make a point. Mayor Robertson just made a point to me by saying that the membership of the GTA does include within Metro representation from Etobicoke, North York, Toronto, the city of York and the borough of East York. That was a point he felt that I should simply articulate out loud.

Ms Trimmer: Yes, but the point I made was whether or not he speaks for them.

The Chair: I understand that. Sure.

Ms Trimmer: My understanding and communication from all the mayors is that they don't.

The Chair: I appreciate that.

Ms Trimmer: Clearly, unless they've signed a document that says, "Yes, you can speak for me," you don't.

The Chair: Mayor Trimmer, I was just raising the point of representation from the various cities and the borough of East York.

Ms Trimmer: Yes. We used to be part of it, but we're not any more.

The Chair: I appreciate that.

Mayor Trimmer, we've run out of time. We appreciate the fact that you and your staff have come here today and made this presentation to us.

Ms Trimmer: Thank you to you and members of your committee.

BOARD OF TRADE
OF METROPOLITAN TORONTO

The Chair: We invite the Board of Trade of Metropolitan Toronto. Welcome to this committee, Mr Murphy and Mr Gabor.

Mr Peter Gabor: My name is Peter Gabor and I'm chair of the board of trade's task force on planning and reform. Part-time I'm a principal in my architectural practice and actually get to do some work. I must admit to being frustrated many times because the planning process holds up so many worthwhile projects.

Like many other groups and associations, we have appeared over the course of the committee's hearings and we've been actively involved in consultations with the minister and with the task force on numerous occasions. I must admit I'm a little bit concerned that the consultation process with us, as with other groups that I've been party to, has been very difficult because we have met many times, copious notes were taken by the people who were consulting with us, and then our comments were completely ignored. I hope that in coming here today we will get a more receptive hearing than we have to date.

As I said, we met with the Commission on Planning and Development Reform, with the Ministry of Municipal Affairs and the minister himself. We have had previous correspondence on this issue as we have reviewed matters as they have progressed from the initiation of the draft documents and on to later stages. More recently the board of trade joined with other groups, including the Association of Municipalities of Ontario, the Urban Development Institute, the Greater Toronto Home Builders' Association and the Canadian Bar Association, a very diverse group, in a unified expression of concern about the direction that this bill is taking.

Although there are many issues that would require attention here that we have concern about, such as gatekeeping, municipal funding ability for required studies, grandfathering of existing projects and overloaded public participation in the process, I want to concentrate my comments here on two areas this morning: streamlining the approval process and the effect of the proposals on economic development and job creation. We are, after all, the board of trade. I will leave it to others mentioned above to deal with the other issues.

With regard to streamlining the planning approval process, the legislation has as one of its goals the laudable objective of streamlining the planning approval process. Unfortunately, the legislation before you will not do that. Let me provide some examples.

The recommendation that local councils be the final arbiter for committee of adjustment issues will eliminate the right of appeal and simply have projects rejected for

shear political reasons instead of planning merit. Such a measure will not reduce the number of appeals at the OMB. It will simply move applications from the committee of adjustment process to the rezoning process, which is a lengthier process and costs more money, will work against affordability and take up more time at the OMB, not less.

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Such a situation also runs directly counter to the policy statements contained in the legislation. Development proposals, particularly in urban areas like the metropolitan area, will not be possible to do because of simple political pressure. By removing the committee of adjustment, you remove the simplest possible way to achieve the goal of intensification, and I think this would be really unfortunate. This works against large-scale developments and small-scale, infill developments, and also works against every home owner in the province of Ontario, as zoning legislation in most municipalities is enacted in such a way that forces people to go to committee of adjustment for almost anything they want to do in terms of renovations, or even additions.

The board also believes that the additional requirement for an environmental impact statement for developments will only lengthen the approval process and force applicants to address hypothetical questions and scenarios. This will again add time and cost to development.

Finally, I think it is really important to state, and we have stated this before in many other consultations, that the existing regulations in the planning approval process have to be reviewed. It's unfortunate, since there has been ample opportunity and these could really promote time and cost savings, that these have not been achieved. I think the policies in this bill should make it easier and more economical to plan and build worthwhile projects in communities. As it stands, the initiative will not only not promote good intensification projects and community building but will actually make it more difficult for those who want to proceed in this way to get their projects approved.

I want to touch on economic development and jobs. The six proposed policy statements are, we believe, very broad in their scope and will tip the balance between economic growth and the need to protect our natural environment, which has always been a high priority for the board. On this point, I think it's important for the board to restate its opposition to the proposed change in wording, that local plans "be consistent with" instead of "having regard to" the policy statements. It's sort of like putting a straitjacket on the municipalities and then telling them they can do whatever they want.

It may sound odd coming from a person speaking on behalf of an association based in Metro Toronto, but the rest of the province has always had concerns over Toronto solutions to Toronto problems being imposed province-wide. This is likely to continue with the development of this bill.

To return to the main theme of the policy statements, they lack any clear priority for job creation or economic growth. In fact, they pay lipservice to it and, rather, tend to have stricter guidelines on what developers cannot do.

It is the opinion of the board that there will always be impact by development on the environment, but the issue should not be to prevent development but to minimize the impact of the development on the environment.

I want to touch on the competitiveness of development in Ontario. Our members are experienced with the notion of competition for success, so we feel it is important also to draw comparisons between Ontario and other jurisdictions in the planning approval process.

In many jurisdictions approvals happen faster and with minimal delay. Here in Ontario decisions on applications can take months. Ontario is totally uncompetitive in this regard. Investment will, and is, going elsewhere. This legislation will not stop that from happening, and in fact the mayor just before me expressed concerns of the same kind.

Finally, I want to comment on the process of implementation of this proposed legislation. It is a situation in which we are being asked to trust that the concerns the board of trade and others are raising will be dealt with by the guidelines when they are released. Unfortunately, the legislation, with its strict language, will be passed first, before the guidelines are finalized. The process is backwards, especially given our history of the consultation process. It seems strange that the people most affected by this legislation are the constituency least listened to in the development of these guidelines.

Thank you for hearing me. If I can answer any questions, I'll be happy to.

Mr Grandmaître: On the committee of adjustment, I agree with you that this is a major change. Now their decision can't be appealed to the OMB. I was asking the GTA group that appeared just before you if that decision would affect the GTA in its planning and they said no, that they can live with this major change.

My question was, don't you think that developers, to circumvent the committee of adjustment, will simply ask for a zoning change instead of a minor variance so that they can have the opportunity to appeal to the OMB? They seemed to be in favour of this major, major change. I want you to give me your thoughts on this major amendment.

Mr Gabor: I would think it hands a municipality a tremendous power advantage.

Mr Grandmaître: Well, that's why it's called "streamlining the planning process." They want to give municipal governments more power. Excuse me for interrupting.

Mr Gabor: The municipal governments are the ones that write the bylaws, and it's sort of like asking the fox to adjudicate whether it has rights in entering the chicken coop. It's a very undemocratic proposal, I think, and most people aren't aware of the impact that this will have. It goes way beyond the scope that is envisioned by the ministry and by the Legislature.

Let's put it this way: It will be a disincentive. We've seen this in our own practice. Where the regulations get too onerous, people simply refuse to do the best project possible. This will happen more and more and it will affect the quality of construction and it will definitely impact on the intensification of our network of arteries in

the urban areas and even in planning extensions to new communities in the greenfield situation.

Mr Grandmaître: Second question: Again, the GTA people were in favour of the new wording in the Planning Act about local plans "shall be consistent with" instead of "having regard for." You seem to not appreciate this kind of change.

Mr Gabor: Well, we have a lot of concern with this simple change in words and we have had discussions with John Sewell about this many, many times. We simply cannot understand how you can think you're empowering municipalities when you're really tying their hands. I know that John Sewell always said that we're setting very strict rules so that everybody knows what the rules are and then they can simply do what they do best.

I think it will limit municipalities to respond to local conditions. They're the best people to take care of those issues, and we can't, in an omniscient way, predict what the problems are going to be, what local sensitivities are going to be.

It's going to be very difficult for any mechanism that involves overseeing the implementation of these guidelines in a central location at the Legislature, no matter how well meaning, to consider and sympathize and understand the problems that are out there in the communities. This is particularly relevant, I think, outside of Metropolitan Toronto.

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Mr Grandmaître: Also the provincial government is retaining—

The Chair: Very briefly, Mr Grandmaître, please.

Mr Grandmaître: Yes—that strong hand when it addresses the provincial interest issue. You know, what is a provincial interest? It could be just about everything that moves in a municipality. They can declare a provincial interest and again block municipal planning. Do you agree with me?

Mr Gabor: They have that right now, unfortunately, and that will be maintained. So if the intent is to streamline the process, they have not achieved it here.

Mr McLean: You indicate in your brief that Toronto problems are being imposed province-wide. I guess that's a concern that's been raised in the public hearings that we've held. Northern Ontario is very concerned. They want the OMB out of the appeals. They want to do the appeals. All the delegations we've heard in southern Ontario want, still, the final appeal to go to the OMB. There is a major difference and you're the first one who's mentioned that, and you're right.

The other area I want to touch on is the environment. You said in your brief, "an overloaded public participation in the process." I'm not so sure that the public participation is overloaded. I think the problem we have is that it's not defined in the legislation what the process is to speed up and streamline the whole system. In the area of the environment, environmental impact studies seem to me to be where there should be some guidelines and some timetables of how we can speed up the process and still have the public participation. How would you see that being done?

Mr Gabor: We're not objecting to public participation but we think there's ample opportunity now; moreover, that if the intent is to streamline the process, one measure, for instance, that would make it much more streamlined is to raise the fee that you have to put in to appeal to the board. Right now it's \$100.

I think there are cats and dogs that have that kind of bank account that could appeal, and often it's incredible how frivolous appeals can get to the board and waste its time.

So we're not objecting to legitimate public access to the process. The process is in place now. To add additional layers for notice at the initial stages of a project, when maybe the final determinations haven't even been made, there are discussions and negotiations between an applicant and an authority that will change the project, to bring in the public at a too-early stage will make it more difficult and will mean an even more uncompetitive process.

Mr McLean: A lot of the delegations have indicated opposition, as you have, with regard to "be consistent with." Now, we haven't really had a fine-line definition of "consistent with." Is that consistent with the provincial policies that they have laid out? Is that your interpretation of it?

Mr Gabor: I think it's consistent with the policy guidelines, but rather than apply the guidelines to local conditions, they're saying apply them notwithstanding local conditions.

Mr McLean: Right, okay. "To protect our natural environment is a high priority of the board," and I guess that's what I want to end with. We all realize that and all municipalities speak highly of that, but I'm beginning to find out that the process is not defined nor laid out of how municipalities can go about making sure this is done. Thank you for appearing today.

Mr Bill Murdoch (Grey-Owen Sound): I'll be very brief and just thank you people for bringing your report to us and also congratulate you on talking about this Toronto solution for the concerns of all Ontario. That seems to be a big problem in the rest of Ontario, and until our bureaucrats and planners in Toronto figure that out, we will always have this problem.

But just one question: If this bill is passed, will it help drive more businesses to the States than we're already doing now?

Mr Gabor: If our concerns are right that it takes more time and it takes more money to develop. Already it's taking 10 times as long as it did 20 years ago to get projects under way. If this increases that—we have projects under way that are promoted by local developers, by foreign developers. We always have a concern that simply by going through the process now, and if we have to go through a new process in addition, we're simply going to drive away business.

The Chair: Ms Haeck, and if there's time, Mr Wiseman.

Ms Haeck: Yes, I'll keep that in mind, Mr Chair.

I appreciate your comments. We obviously have some—I shouldn't say "obviously," but I will put it on

the table: We do have some major differences of opinion. I wanted to not just speak for myself, but I attended a civic meeting last week and I have here "What Kind of City Should We Have?" relating to St Catharines, which a local ratepayers' group has put together. You made mention of the committee of adjustment. Down our way they refer to them as the land division committee, and this is their view of that organization.

"Members appear to lack concern for the interests of our citizens." "What research do they do prior to making a decision?" "It is an arbitrary body with considerable influence but no responsibility to voters." Since you're an architect, some of the concerns they raise, such as aesthetics—this ratepayers' group would like to see an establishment of a group to be responsible for an overview of what intended development or changes may do to the appearance of our city. "Currently, unrelated projects are allowed to happen wherever they fall." They express concerns about heritage, trees, creek valleys, green spaces, a whole range of other things, and the fact also that one department in the city doesn't necessarily talk to the other, so that you end up having a real hodgepodge of development and decision-making taking place.

So the citizens want involvement. They want to be involved on a fairly regular basis. They have a view of what their city should look like and they don't feel—I don't think I'm saying anything out of turn here, but they don't feel that your remarks necessarily reflect their concerns as the average resident and taxpayer in the community, and not from Toronto but from someplace like St Catharines.

Mr Gabor: You know, I could support a lot of what you're saying. I don't think we're disagreeing as much as you think. What I would like to see this document do is promote the kind of city that you see as the right way to proceed.

Ms Haeck: Well, then, we're going to have to provide more rules and organization. I think that's one of the issues that Mr Wiseman would probably end up addressing, because the way planning is done currently, it is a hodgepodge and it is not resulting in a city that I think a lot of residents can take pride in.

Mr Gabor: I couldn't agree with you more. I think we can both say we agree on the principles behind Bill 163 and behind the Sewell commission reports. What we have quarrelled with and what I think you will find and all the municipalities will find is that this will not produce the kind of communities you think it will do. I see it as a stick-and-carrot approach, the difference between a stick approach where you tell people, "You must do things this way," rather than a carrot approach, where you can induce people to do things the right way. For instance, there's nothing preventing St Catharines from developing an urban design guideline. There's nothing to prevent St Catharines—

Ms Haeck: Except they're not enforceable.

Mr Gabor: Well, they can be stated goals in the official plan. There are other municipalities that have them, and you can negotiate with the land holders to include them in their development agreement. We're just

involved in a project in Markham which is an 11,000-acre development that is going to be doing just that in order to produce probably the finest example in the world of an integrated, environmentally friendly, transit supported, beautiful community offering affordable housing, expensive houses, everything in between, mixed environment: live, work, all the goals that any municipality could possibly require. It is possible to do. It is possible to do under the existing legislation, and I alluded to it in my talk.

I would rather see planning require municipalities to lay out an infrastructure that makes it possible to do intensification and good city building and let it happen when the market forces allow it to happen, because if you force it, it simply will not happen if there's no market.

The Chair: Mr Wiseman. Very briefly, please.

Mr Wiseman: Two very brief comments. First, the businesses in my riding tell me that nothing could be as disastrous to their business opportunities and prospects in the future as the high interest rates, high dollar and the banking policies of the previous government, carried on by the now Liberal government in Ottawa.

In order to do what you have just described, zoning has to mean something. The official plans and what the zonings are in the official plans have to mean something. Currently, they mean nothing at all. They are not worth the paper they're written on, because they can be changed. Developers will come back and request change after change after change until they get what they want, and if they don't get what they want at the council, they'll go to the OMB and the OMB will give them what they want even if the council doesn't like it.

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Mr Eddy: That will still happen.

Mr Wiseman: My question here is, how can we put into this legislation, if Mr Eddy is right that it will still happen, some strength to make sure that the residents, the town and the developers all know what the policies mean and we get rid of the maybes and the ambiguities so that policy really means something?

Mr Gabor: This is not a half-hour discussion or a 15-minute discussion.

Mr Wiseman: I think I used up a minute and a half and it's more than I was supposed to have.

Mr Gabor: I wouldn't know where to begin, it's such a complicated question. It's all interrelated. If you've been involved in this process for even a short time, or possibly some of you for a very long time, you know that it is a very complicated process. You look at one aspect of development and it impacts on all the rest. I think there is a way. I think it can be done without draconian changes to policies and legislation, and I think you would be surprised, if you worked with the development community, how interested they are in building a better city. Sometimes they can't help themselves, because the process doesn't promote it. I'm saying develop a process that promotes good city building. This does not do it.

The Chair: Mr Gabor, we thank you and Mr Murphy for coming and for sharing your concerns with this committee.

CONCERNED CITIZENS FOR CIVIC AFFAIRS IN NORTH YORK

The Chair: We invite the Concerned Citizens for Civic Affairs in North York.

Mr Colin Williams: Mr Chairman, is it in order to proceed with only some of the committee members present?

The Chair: Mr Murdoch is here and I suspect he will be joining us very shortly.

Mr Williams: My name is Colin Williams. I'm the president of Concerned Citizens for Civic Affairs in North York. With me are Mr Timothy Pellew and Mr Gerard Ronan. Both are members of our executive.

Our organization has taken an active interest in municipal affairs since about 1984. In 1988, we commented on the draft Hošek-Eakins housing policy. More recently, we made a number of submissions to the Sewell commission and submitted comments on the draft set of comprehensive policies which were promulgated in May.

We support the general intent of Bill 163: streamlining, more open local government and more responsibility for local government. In our view, clear planning policies and also guidelines, both from Queen's Park and in official plans, provide a better vehicle for streamlining than all the proposed deadlines.

We support the two central thrusts of the Sewell report. First, we must in a systematic way pay more attention to our environment; second, planning at all levels is best done if there is a clearly articulated policy base for any plans.

You might wonder whether we are before you to sing hymns of praise. Not exactly. We feel the bill can be improved and we shall be making some proposals for your consideration. Mr Pellew will address you on the minor variance proposal.

Mr Timothy Pellew: Section 45 eliminates appeals to the OMB on minor variance. In the case where the application for the variance is heard by council or committee of adjustment on which one or more members serve, their decision is final and there's no appeal process. In instances where there are no members of council on the committee of adjustment, an appeal to council is allowed, but again there is no provision for appeal to the OMB. We are very disappointed by this change.

To start with, there's difficulty in defining a "minor variance." Some are in fact zoning changes in disguise. Many of them would certainly not be minor matters to the neighbours. Would you call putting up a monster house on an undersized lot next door to you, completely dominating your own house, a minor matter in your life?

The individual does not expect always to get a fair decision at city hall. The developers finance the election costs of many members and expect favours in return. I do not have to go deeper into this, because the saying that the individual cannot fight city hall is only too well known.

This document, Understanding Ontario's Planning Reform, has as a subheading Empowering Municipalities. What about empowering people? What this bill would actually do is to disempower people by taking away their

present right of appeal to an impartial body, the OMB. There will be absolutely nothing people will be able to do if they're faced with an injustice, which is bound to happen from time to time. The wealthy may be able to get the matter into the law courts, but the average person would not be able to afford that. I appeal to you to change Bill 163 in respect to this matter.

Mr Gerard Ronan: I'd just like to reiterate what our president, Colin Williams, said, that we endorse the stated goals of this Bill 163. We've read the documentation, very hefty volumes, and we want to compliment the authors on the very lucid language that the comprehensive policies are stated in. They're very sweeping, and if you're interested in the environment, they're very exciting.

The great challenge we see is going to be to have this framework and all these rules and meet the goal of streamlining and reduction in the time lengths. I don't know whether in the regulations you're going to try to lock in some of those stated goals of saving time, but the great benefit of this revision will be lost if any time is exceeded and the obvious goal of trying to shorten those periods is not achieved.

I'm just going to deal with some general planning matters, so of necessity I'll jump from topic to topic, so there's not much continuity.

Under subsection 3(5) on page 5, it implies that not all ministries need to have regard to the policy statements. Only the Minister of Municipal Affairs is referenced. We recommend that all ministries be required to comply with the statements.

In section 16 on page 10, it provides that official plan requirements may be set out in regulations. We support the recommendations by Mr Sewell that rules be in the act itself to provide more certainty.

Another issue is that a major weakness with current planning practices is the proliferation of site-specific plan changes to official plans. The end result is often a travesty of the official plan. We are recommending that amendments to official plans only be permitted after a review of impacts on the community planning area, and not have all this ad hocery associated with changing official plans.

In clause 17(29)(b), page 15, we note that individuals may lose the right to appeal official plans to the OMB if they fail to make oral or written submissions to council. We believe this to be too severe a penalty and recommend reinstating the current policy whereby the OMB will write to an applicant requesting that they provide adequate grounds for holding the hearing, and if they don't, they don't have it. Sometimes there are occasions when people cannot attend formal council meetings.

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We also want to recommend that when development proposals are before councils, local citizens and residents' organizations be alerted before, not after, planning staff have made their report. This will help mitigate the degree of shock which currently results when residents hear about development after the fact.

The provision of a sunset clause for approved subdivi-

sions is a useful addition to the revised Planning Act. We recommend this provision be expanded to encompass the sunset clause for site-specific rezonings, thereby freeing up needed land for redevelopment.

Section 52 of the bill contains provisions dealing with fill removal. I listened to the GTA mayors, and we want to reiterate the point they raised. The urban forest is constantly being denuded for want of regulatory safeguards. We recommend that the fill protection provisions be expanded to include tree and vegetation removal.

Another important point to residents, and I know this is not maybe transferrable all over the province in northern Ontario—again, listening to this other concern of what's tailor-made for large urban areas, our concerns may not fit somewhere in Timmins. But be that as it may, the automobile juggernaut continues to close in on residential communities within large cities. Neither the bill nor the comprehensive policy statements provide any protection against automobile intrusion into residential neighbourhoods. We wish to recommend that this oversight be corrected and that provisions be incorporated into the bill reflecting these concerns.

The final point I wish to make as a representative of Concerned Citizens, as the president of a ratepayers' group, and as a citizen activist in some of the big difficulties we've had in North York over the last six years dealing with monster homes is again this bread-and-butter issue of the appeal of minor variance decisions to the OMB. Mr Pellew raised it, and I wish to again orchestrate that concern a little bit more. We firmly believe that in its efforts to streamline this aspect of the planning process, the government is preparing to throw out the baby with the bathwater. This new provision does not constitute empowerment of the citizen. We feel it reflects the callous stripping away of one of the few remaining defences possessed by citizens when they are negatively impacted by poor planning decisions.

Just as a little example, and I speak because of my personal involvement in this, over the past five years communities in North York and elsewhere suffered the ravages of the monster home syndrome. Good quality, reasonably priced homes were being torn down and replaced by what we call Taj Mahals, three to four times larger and costing two to three times more. Adjacent residents complained that their homes were being totally overshadowed, with loss of privacy and ruined street-scapes. They received little sympathy at committee of adjustment hearings.

The OMB was the important resource for the residents. The OMB listened impartially to the planning issues. It wasn't frivolous; it wasn't vexatious. It was people who felt their whole lives were being ruined by these awful developments. The OMB was the vehicle, somebody who could listen. Nobody had nobbled the horse. We would get a day in court.

North York council was, to put it mildly, very pro-development, and its committee of adjustment reflected that bias in its decisions. Every monster house was perceived as more taxation revenue. By rallying citizens, lobbying councillors, appealing to the OMB, we were able to have modest changes made in the bylaws to

modify the worst excesses of the monster homes.

The information we have suggests that for minor variance appeal, the time taken by the OMB is around 2% of its time. If this is the case, why remove the citizen's last line of defence against poor planning, especially when the dice are loaded against the citizen at earlier phases of the planning process? We ask, whose needs are being served by denying this important right to citizens?

My last line is, if we have achieved anything by appearing before this committee, it will be measured by your response to this heartfelt plea: Restore the rights of ordinary citizens to appeal minor variances to the OMB.

Our president, Colin Williams, will close off with a few final recommendations.

Mr Williams: I'd like to move on from planning issues to open government. Page 5 of our brief addresses this issue.

The starting place for open, democratic municipal government should be with the election process. At present, development and other special interests play too large a role in the funding of municipal elections. We therefore urge this committee to adopt the Quebec practice and require that only an elector may contribute to an election fund, from his or her own money. Elections should be for people, not corporations.

Another problem connected with election, or charitable, funding is the fund-raiser. Tickets to fund-raisers are sometimes bought with public or charitable money. Patti Starr wrote the textbook on this subject. It weakens the openness of municipal government.

One aspect of Bill 163 deals with open meetings for municipal bodies. In general, this is a good step. However, a particular concern is the new protection-of-secrecy clause, subsection 55(5) of the Municipal Act, which is section 47 of Bill 163.

Consider two examples: (a) a city is considering an agreement to contract out its garbage collection, and (b) a city's board is considering an agreement for the management of a performing arts centre. For case (a) all committee deliberations are to be in the open. For case (b) another act permits the board to meet in secret. Since the board elects for secrecy, any committee or council meeting considering that same matter may also meet in secret.

For our present purpose, the municipal freedom of information act is intended to protect the deliberations of a secret meeting, not the product of that meeting, the agreement, in our example. Unfortunately, a number of decisions by the privacy commissioner's office appear to treat these as being the same thing.

The introductory booklet, page 4, has, "Final decisions must be made in an open public meeting." This doesn't help much if all we learn is that Councillor Smith voted for the adoption of report 20A. This is not open in any meaningful sense.

We recommend that section 47 of Bill 163 be amended so that:

(1) Clause 55(5)(g) only apply to the specific body identified in the authorizing statute; and

(2) Subsection 55(10) be added to require that as soon as the decision becomes effective—an agreement comes into force, in case B above—the product of that decision be a public document.

The disclosure-of-interest rules might be more onerous than those applicable to members of the Legislature, but they seem reasonable in the circumstances.

We recommend that clause 2(3)(e) be added to the disclosure act to provide that the receipt of an election contribution is deemed to create a pecuniary interest for the term of office.

Clause 5(2)(a) is open-ended. If the gift is incidental to the responsibilities of the office, it should either go to the office or be taxable in the hands of the office holder. In either event, the fact that a gift has been received, but not necessarily its value, should be publicly reported.

A gift can perhaps be judged according to whether it is a business or a personal expense to the donor. A lunch provided by a developer to a municipal official is presumably intended to build a relationship. It is a cost of doing business. Louis Charles has successfully developed a number of relationships. Some municipal officials would likely have avoided the slippery slope if all such meals were in the public record.

We therefore recommend that the minimum reportable single gift be prescribed, clause 5(3)(a), as \$15 and not the proposed \$200.

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Mr Murdoch: Thank you for your presentation. I certainly appreciate it, and I have the same concerns as you have with the minor variances, because we've been unable to really get a clear description of what a minor variance is, and as you said, is it a large house beside you or not. I'm sure there are going to be a lot of concerns and problems with this, and some of the people before you mentioned that some people just overstep this process and go through the zoning bylaws and things like that. It won't streamline the situation, so maybe they should be leaving it alone.

It's amazing the amount of people who have come now and said they would like to go to the OMB, because I'm sure before this bill was ever introduced, if we had hearings on the OMB, there'd be a lot of people complain about the OMB. Now the OMB looks good compared to this bill. It's amazing this has happened, but I guess this bill's done that.

The one question I wanted to ask, though, is, a lot of municipalities are concerned with the change in the clause that they won't have to "have regard" for but will have to adhere to the policies of this government. What concerns a lot of them, especially out of Metro Toronto, is that we have planners in Toronto who dream up the plans and then they're enforced upon, say, rural Ontario or northern Ontario. Do you have any ideas or things we could look at in that regard?

Mr Williams: In our view, this is of no great importance. The change is perhaps minimally clearer than the existing rule, but it's no big deal.

Mr Murdoch: In your case, you don't think that would be a problem.

Mr Williams: We have no strong feelings for or against.

Mr Murdoch: Okay. That's really all the questions I have, Mr Chair, if you'd like to go on.

Ms Haeck: I just want to thank you very much for your presentation's comments relating to heritage. I was looking at your recommendation that you identify significant features and requiring, again relating to minor variances, a good definition of what is significant, because obviously that's one of those words that definitely needs a very good example.

In relation to open government, on page 5, particularly at the bottom with your recommendation, would it be your sense that better minutes need to be taken and provided, because I believe myself, in looking at minutes that are made available for public perusal after many meetings, they're really not full. They provide basically a motion and who seconded and the ultimate vote but not necessarily a good reflection of the discussion, so your concern as far as how these decisions were made would probably require much better recordkeeping.

Mr Williams: Unfortunately, that wouldn't help in the case of matters that are held in a secret session. The minutes would then be a description of the deliberations. This is currently and would continue to be secret and therefore not a public document. Yes, I think better minutes would certainly help in general, but it doesn't address the specific problem we're raising in connection with the product of this secret meeting.

Mr Tony Rizzo (Oakwood): Sir, you mentioned the minor variances percentage, 2% of all the total appeals to the Ontario Municipal Board. Where do you get those figures?

Mr Williams: The Sewell report gives a figure of 15%. The municipal board gives a figure of 6%. Now, if we take the savings that are likely to come from the procedures that Dale Martin outlined to you, this should perhaps reduce it to a further one third. So this is a derivation of the 6%.

Mr Rizzo: So 2% does not represent the actual percentage of the work performed at the Ontario Municipal Board as of today.

Mr Williams: Not today, no.

Mr Rizzo: It's an anticipation of what may happen in the future.

Mr Williams: Yes, with the streamlining proposals whereby, instead of having a full hearing, there'll be these preliminary meetings that he claims sorted out 85% of the cases.

Mr Rizzo: So it's just a projection then. It's not a fact as of now.

Mr Williams: Yes.

Mr Eddy: Thank you very much for your presentation. I regret there isn't time to explore many of the items that you've dwelt on and explained to us. Unfortunately the bill contains so much it would take considerably longer time and I wish we had that.

Coming to the minor variance appeal situation, it seems to me that by far the majority of Ontario citizens

who have come before us feel that the OMB appeal must be continued for minor variance or we must have a very clear description of what a minor variance is and indeed it must be minor, because many of the minor variances are not minor at all. They're variances, but they're not minor. We've got to have either/or: Continue it or have a very clear definition of minor variance. Would you agree with that, and indeed keep it minor?

Mr Ronan: I think it would help very much if there was a clear delineation of what constitutes a minor variance, but I don't think the corollary holds that justice would prevail. The system is so overloaded against the ordinary citizen at their hearing proceedings now in place that the difference between attending a committee of adjustment and going to the OMB—I've been doing that for 10 years. It's night and day. In one area you're looked upon as somebody who's trying to hold up progress and stop development happening and in the other place you're listened to about what planning rules are, what the guidelines are, what are the true issues involved in the particular development before the board.

It's a whole culture. It's not just the definition. With a definition, you can play all kinds of things that would help. But you need a change of heart, a different perception about whose ox is being gored, that the citizen is not just a malcontent. They're genuine concerns. Their whole investment in a particular home or area is up for grabs, and being able to listen to it in a planning base—it isn't there because of the nature of how we evolved. So that's why we don't want that taken away. It's a lifeline. It may seem like streamlining, but it's slitting our throat.

Mr Eddy: Thank you. You've certainly proven your point. I also note your concerns about removal of fill, dumping of fill, removal of vegetation, removal of trees, the urban forest, and it seems to me that because many of these things can and do happen prior to a planning application being submitted, what we need is legislation, strong legislation, for municipalities to prevent this action, with fines and forced replanting or whatever is required, rather than putting it in the Planning Act. I'm not opposed to putting it here, but it happens before the planning process commences, and this is where we've got to be alert and make some changes that municipalities have a stronger right to do something, it would seem.

Mr Williams: If I understand the proposal, it is that there be a change in the Municipal Act too.

Mr Eddy: Yes, and there is a Trees Act and a soil preservation act, but they all need to be much stronger and clearer.

The Chair: We want to thank you for the interest you've taken in these hearings and thank you for sharing some of your ideas with us.

MINISTRY OF ENVIRONMENT AND ENERGY

The Chair: We invite the Ministry of Environment and Energy staff, Mr Wilfred Ng and Mr Alexander Campbell.

Mr Eddy: Mr Chair, is this a true depiction of what happens, what's lying in wait for us in the septic system?

The Chair: They'll tell us. Welcome to the committee. Please begin any time.

Mr Wilfred Ng: Good morning and thanks for inviting us here today. To my left is Mr Alex Campbell. Mr Campbell has been involved with the whole septic issue for quite some time, and he'll be able to address some historical issues that I wouldn't be able to.

The issue of reinspection has been raised by Mr Sewell on a number of occasions, and our purpose in being here today is to provide some background information on what the septic program says and what are the factors to be considered before we proceed with a reinspection program.

The package that you have in front of you consists of two documents. The first one is my presentation, entitled *Reinspection of Septic Systems*. The other one is called *Care and Feeding of Your Septic System*. This document is written in very simple language and I hoped that this would assist the committee in understanding what a septic tank is, how it works and what are the problems associated with a septic system.

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I would like to spend a few minutes on the program mandate, or on the activities of the part VIII system. The legislative basis for the approval for the licensing of contractors and for the licensing of sewage haulers rests with the Ministry of Environment and Energy. The legislative framework also allows the ministry to enter into agreement with its agents to deliver the part VIII programs, and I'll get into who the delivery agents would be in a few minutes.

The legislation also allows the ministry to charge fees for the issuance of a certificate of approval and for the issuance of a use permit and also for land use planning reviews associated with part VIII.

I will note that the current legislative framework does not have any formal mechanism for reinspection, and I guess that is the crux of the whole issue that Mr Sewell has been discussing.

In terms of the agents' delivery of the part VIII program, it is essentially done by local health units in 34 areas. In some areas where the ministry has not been able to enter into agreement with the health units, those will be done either by the ministry, through private contractors or through conservation authorities, and it was even done in one plumbing department in one restructured county, and that is in Scarborough.

Mr Eddy: Is that plumbing inspection department, rather than plumbing department?

Mr Ng: I think it is the plumbing department.

In terms of the program activities, the health units are responsible for the inspection of the proposed lots. They are also responsible for the review of proposals for new systems and alterations to existing systems. They are also responsible for the issuance of certificates of approval and use permits, and also they're responsible for response to complaints or legal matters. I would also note that the C of A process for part VIII is a little bit different than our conventional C of A process. With our conventional C of A process, we don't issue use permits, but for part VIII we issue a C of A first for construction and then follow up by the issuance of a use permit.

In terms of the MOEE's role, our role is essentially one of coordination, and also we're responsible for the establishment of standards and policies for the health units to enforce. The ministry is also involved in the licensing of system installers.

Mr Perruzza: Mr Chairman, point of order. The point is this: We've all been anxiously waiting for the ministry officials to be before this committee, because all of us throughout this exercise have developed a great many questions to ask the ministry staff. I'm just wondering if we could cut the presentation a little shorter, because time is limited, which would leave more time to all of the caucuses for questions.

The Chair: Okay. I think the point is clear.

Mr Perruzza: I think all of the members would agree—

The Chair: The point is clear, Mr Perruzza.

Mr Perruzza: —that we would better deal with many of the concerns in that way.

The Chair: Could you do your best to make it as brief as you can so members can ask you as many questions as possible?

Mr Ng: Sure. Before I leave the program activities, I just want to mention that the MOEE is responsible for the provision of grants to the health units.

With that, I would like to jump into maybe the factors to be considered if one were to proceed with a reinspection program. That would take us to page 11.

A lot of discussion has been focused on the need for inspection and what the program should entail if we were to proceed with one. Before we institute any formal program, there are a number of factors we need to look into.

The first one is on the scope of reinspection. What are we talking about here when we say reinspection? The whole system is underground, and in order to identify any failure or malfunctions, one may have to go into the system itself. A visual inspection may not reveal enough information as to whether the system would fail or not.

The other factor that we need to consider is that the information obtained during a reinspection may not be sufficient enough for prosecution. So before one proceeds with reinspection, one would have to define the scope of reinspection.

In terms of the logistics of reinspection, we have estimated that there are over one million systems in Ontario. Assuming that we have 100 inspection days available during the year, one would have to determine what is the cycle of reinspection and what would be the number of inspectors associated with the cycle of inspection. The shorter the cycle, the more inspectors you would need. One would have to also look at the expertise and the experience of the staff. Also one would have to see how the enforcement aspect is going to be addressed once the inspection is done. Of course the most important factor is who is going to pay: whether the government should pay or the owner should pay.

In terms of cost, if the government were to do the program, the government would have to look at how much it's going to cost to set up the program and at how

much money would be expended on the enforcement side. If the system owners were to pay the cost, then we have to look at how the money could be recovered. One of the options is through user fee. We have also estimated that the inspection fees will range from \$75 to \$2,500. The reason we have such a wide range is because of the degree of inspection. It all depends whether this would be a visual inspection or whether we're going to have in-depth study. The other reason is, a lot of consultants have indicated that if they have to do a more detailed inspection, then they come with additional liability and that's why they're going to charge more.

Another factor to be considered that is associated with a reinspection program is the management of pump-out or what we normally call seepage. Right now the infrastructure is at capacity and what we need to do is look at how those pump-outs would be managed if we instituted a formal reinspection program. I've talked a little bit about the liability issue associated with an inspection agency.

The other factor we need to consider is, whom should we be discussing with in order to develop a meaningful reinspection program? Some of the stakeholders we have identified include system owners, municipalities, the On-Site Sewage Advisory Committee, health units, the carriers and, of course, environmental groups. I think those groups would be able to help us define a meaningful reinspection program.

In summary, we conclude that there are a number of benefits with a reinspection program; however, before we proceed with a reinspection program, we need to look at the factors we've identified before. What we would like to see is whether we'll be able to develop some sort of legislative framework at the outset, to allow us to carry out some further discussions on the whole inspection issue. That would conclude our presentation today and we'll be happy to answer any questions that the committee may have.

The Chair: Thank you very much. We'll begin with government members.

Mr Wiseman: I will be very quick. I noticed in your technology section you have composting toilets and then you have under class 1, sewage system classes, composting toilets. Why do you have those there? Because they are not allowed in Ontario.

Mr Ng: That is not correct. We have allowed composting toilets to go into certain areas.

Mr Wiseman: They are not allowed in private dwellings without having a complete septic bed in association with them.

Mr Ng: That's not quite correct either. What we're seeing is, if one were to use a composting toilet in, say, a new subdivision, then there would have to be allowance made for the class 4 system in the future. Our concern is if there is a change in ownership, if people don't like a composting system, then they can switch to the class 4 system, but we're not saying we don't accept composting toilets.

Ms Haeck: Just as a supplementary, if I may?

The Chair: Ms Haeck, I'm sorry.

Ms Haeck: Actually, it adds to Mr Wiseman's comment.

Mr Wiseman: It's okay. I was going to have another question but I'll let—

The Chair: The problem is Mr White was next and then Mr Perruzza; that's the problem.

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Ms Haeck: The Ministry of Transportation has added double—basically, they have the composting toilet and then they end up adding the septic system. That is doubling it, and I guess the question I have, which I think reflects Mr Wiseman's comment, is, if that's the process that we're going with, that basically compromises some very good environmental processes that we could follow. My comment is ended.

Mr Wiseman: I guess my question is, why, if you have a composting toilet, especially in the rural areas where septic systems are far more frequently used than they are in the urban, would we not make it a lot easier for composting toilets to be put into cottages or into farms or homes? Because what we're doing now by adding this requirement is making it almost impossible. We know, for example, that the federal government is moving in the direction of licensing and making this kind of a recommendation possible. We know that other provinces have already done it, but we are the ones that are lagging behind and putting the roadblocks in the way of people being able to use this system, which is much cheaper and more efficient than having to put in a huge septic bed.

Mr Ng: As I indicated before, we're not discouraging the use of composting toilets. All I'm saying is there are some limitations with the technology and we just want to build in that allowance in case there is a change in ownership. The bottom line is, the ministry is not discouraging the use of composting toilets.

Mr White: We've been very struck with the amount of discussion over this issue. Obviously from your brief and presentation it has caused some serious thought, I'm sure, within the Ministry of Environment. When you put forth the factors to be considered, I think it's prudent to note you haven't really included the actual costing of the program, because the issues around health and enforcement are much more crucial than monetary concerns alone.

I'm wondering, with the stakeholder consultation and with the programs that you're looking at, how long do you think it will be before we have a comprehensive set of policy recommendations to deal with this problem?

Mr Ng: This is the \$64,000 question, and I'll try to respond in a simple way. It all depends on the scope of reinspection. It all depends on what we want out of the reinspection program. This is why we feel it would be useful to enter into some discussion with the stakeholders. I really cannot say how long it's going to take. My guess is, well, it may take six months to come up to a meaningful program. It all depends on the scope and what we want to have in all of the reinspection program.

Mr White: So what you're saying is, within a year you could develop a comprehensive program to address this issue.

Mr Ng: That's what we're hoping for. We're hoping that we would be able to set up some sort of a legislative mechanism at the outset to allow us to do all those things in the future.

Mr Perruzza: I have just a couple of quick, technical questions, because in my mind we have an environmental disaster happening—right?—and nobody's prepared to take the gloves off. I think that specifically with this particular issue we need to take the gloves off.

You have a wonderful diagram here that explains a little bit the construction of a septic tank. I think it's important to go through that in order for people to really get an understanding of where the pitfalls are in this process.

You have a pipe coming out of the house. What's that made of? In this diagram here.

Mr Ng: Page 1?

Mr Perruzza: Page 1. What's that pipe, the one that's taking the sewage out of the house, made of?

Mr Alex Campbell: It's generally plastic.

Mr Perruzza: Generally plastic, right? A lot of them are clay. The older ones are clay, yes?

Mr Campbell: That's correct.

Mr Perruzza: Clay pipes abutted to one another, right?

Mr Campbell: Correct.

Mr Perruzza: Okay, not joined. Around that pipe you generally have gravel or fill, right? Okay, so there's a lot of filtration there. What's the tank generally made of?

Mr Campbell: In Ontario they're generally made of concrete.

Mr Perruzza: Concrete. How thick?

Mr Campbell: The minimum thickness for a concrete tank is four inches.

Mr Perruzza: What surrounds that—generally gravel, correct?—in terms of fill around it?

Mr Campbell: Generally a sandy backfill.

Mr Perruzza: Okay. So you have a natural filtration system right there, by and large? Yes?

Mr Campbell: I don't follow what you mean by that.

Mr Perruzza: Well, you have gravel or sand around this tank so you have a natural filtration system around it; I mean something that's porous to water, that lets water and gunk through very quickly, right?

Mr Campbell: Yes.

Mr Perruzza: Okay. Then you have this leaching ducting, piping, right? And what's that made of?

Mr Campbell: Typically plastic.

Mr Perruzza: How deep is everything below the ground? How deep is the tank below the ground?

Mr Campbell: Minimum burial depth can range anywhere from four inches to one metre.

Mr Perruzza: How deep does the frost grow in most of Ontario? How deep does the ground freeze?

Mr Campbell: About two to three feet.

Mr Perruzza: So everything is within the frost range

basically, right? So when the frost sets in and the ground freezes, it expands, it puts all kinds of pressure on the system, right? And then when the frost leaves and the water leaves, the soil expands, right? Now, does concrete crack in those circumstances and does piping crack under those circumstances?

Mr Campbell: No, because you're looking at a different—

Mr Perruzza: I'd like to know how many people have concrete basements that don't have cracks in them.

Mr Campbell: Yes, but your basement is not cracking because of the frost action on it; it's cracking because of the water pressure acting against it.

Mr Perruzza: Does the frost move the whole system around? Does it lift it; does it lower it?

Mr Campbell: Yes.

Mr Perruzza: When you lift concrete and lower concrete, does it have a tendency to crack, and does the piping coming out of the house have a tendency to come apart? Do you get roots in that piping, and what's the frequency?

The Chair: Mr Perruzza, you're asking a lot of questions and it's taking a great deal of time. We're running out of time.

Mr Perruzza: Mr Chairman, the point is here that the entire construction of a septic tank is completely conducive to breakage within a year, two years maximum, of its construction, and anything longer than that, it's a failed system. So what you have is a system where 100% of the septic tanks, you can safely say, in the province of Ontario are failing, and all that gunk is going into our rivers, lakes and streams, right?

The Chair: We thank you for that opinion. We're running out of time.

Mr Murdoch: You should close down rural Ontario then, eh? Is that what you're saying?

Mr Eddy: Thank you for the presentation. It's very helpful—

Mr Perruzza: No.

Mr Eddy: You're not using my time up, gentlemen.

I still think it'll be the plumbing inspection departments of municipalities that have the program delivery rather than a plumbing department, because I don't know why a municipality would have a plumbing to do plumbing. Anyway, that's a minor thing.

I notice that you state in 4 on page 14, "Septage (Pump-out) Disposal," "Some municipalities prohibiting disposal at treatment plants and within boundaries," and this is something that's always bothered me because many people do on occasion have their tanks pumped out for good maintenance and of course the contents of that septic tank must go someplace.

It would seem that municipal sewage treatment plants would be the logical place for it to go, although I do know in some cases, it seems, and I'll get to that other point, you allow it to be disposed in other ways. Considering that most municipal treatment plants have provincial funding to expand them or to construct them in the first place, why is that happening? What is the

reason that municipalities are prohibiting disposal of septage?

Mr Ng: First of all, municipalities are prohibiting the disposal—

Mr Eddy: Oh, and they're run by MOE in a lot of cases.

Mr Ng: My understanding is 60% of the current septage are being land-disposed-of and 30% is being disposed of at the sewage treatment plant. Like I said, not all STPs are not amenable to accepting septage for disposal; only a few. I think their concern is about the implications of what the septage may have on the process. But, like I said, not all municipalities are rejecting the acceptance of septage for disposal.

1220

Mr Eddy: MOE operates many of the sewage treatment plants in Ontario. Does MOE accept it at all the plants they operate? No?

Mr Campbell: No, they do not.

Mr Eddy: What is MOE's reason for not accepting.

Mr Campbell: The criteria being that the septage material is too strong to be disposed of at the facility without upsetting the process and causing their effluent criteria to be out of compliance.

Mr Eddy: But I can't think of any even small-size system that it would be that much volume, so what happens to it? Is it spread on the land?

Mr Campbell: That's correct.

Mr Eddy: It's all right, though, as far as you're concerned, to go on the land?

Mr Campbell: If the material is transported and disposed of in accordance with our guidelines, there should be no problem. If it's disposed of improperly, of course, no matter what you dispose of will cause a problem, but if it's done according to our guidelines, there should be no problem.

Mr Eddy: I understand that in some summer parks, for instance, the material can be disposed of on soil, worked soil, provided it's worked within two hours. Some of those are very small areas and it's the same small piece of property that's used over and over, and it's sometimes upgrade or uphill from the situation. Do you have firm guidelines?

Mr Campbell: Yes, we do. They are published in a manual and again, if it is done properly and the limits that are set out in those guidelines are followed, we don't anticipate there should be a problem with the disposal of the material.

Mr Eddy: MOE is now responsible for the inspection of septic systems throughout the province, but farms it out, contracts it out, to health units etc.

Mr Campbell: That's correct.

Mr Eddy: Do all agencies that contract with MOE follow your guidelines? Do you have very firm guidelines that they must follow across the province?

Mr Campbell: The agreement with the municipality requires them to follow the regulations and to follow our design manual and our policies, and enforce those

policies where applicable. It also gives them the authority to introduce their own policies which can strengthen any policy or—

Mr Eddy: Strengthen?

Mr Campbell: Yes. They cannot stipulate a policy that would weaken the position of the ministry at any time.

Mr Eddy: I see, and do the policies for the installation of septic tile systems vary with the type of soil or terrain into which they're being installed?

Mr Campbell: Yes.

Mr Eddy: So you have that all in print and circulated?

Mr Campbell: Yes, the design manual accounts for various limiting factors on the site such as slope, impermeability etc, and it also explains how the system is to be installed.

Mr Eddy: There are many urban-type subdivisions in Ontario that are presently being constructed on septic tanks and septic tile bed systems, I understand.

Mr Campbell: I missed the first part of your question.

Mr Eddy: Subdivisions—I can understand why you missed the question; there was another speaker—but that still is happening. There are subdivisions and that's happening in some of our cities as well—urban subdivisions being installed on septic tank and tile bed systems, as I understand it. Is that correct?

Mr Campbell: That's correct.

Mr Eddy: Thank you very much for the information.

Mr McLean: I'd like to get clarification: tertiary treatment—would that then allow that municipality to not have to hire somebody to haul the sludge away?

Mr Campbell: No, all the septic systems will generate some residual material, sludge, that would have to be disposed of independent of the treatment mechanism chosen.

Mr McLean: But I'm talking about a large municipal sewage system when they have the tertiary treatment.

Mr Campbell: Yes. All of the large municipal sewage treatment plants also generate a sludge material that must be disposed of.

Mr McLean: So in every sewage treatment plant in every urban area in Ontario, sludge has to be hauled somewhere?

Mr Campbell: That's correct.

Mr McLean: Normally it would go to—some I guess would be hauled into a lagoon in the winter and then spread in the summer on to fields?

Mr Campbell: No, the sludge is removed from the sewage treatment plant whether it's a mechanical plant or a lagoon, and then land-applied.

Mr McLean: Is there a time limit that it has to be worked into the land?

Mr Campbell: Yes, there is. It's usually within 24 hours.

Mr McLean: Are the municipalities or the ministry

having a problem finding land that's available to put that sludge on?

Mr Campbell: Usually the land that's used for sludge disposal from a municipal sewage treatment plant forms part of the certificate of approval for that sewage treatment plant so it's already available for them.

Mr McLean: The Sewell commission recommended the five-year inspections and since we have you before the committee this morning, have you had any guidance from the Ministry of Municipal Affairs or from your ministry to draft some amendments that they may want to look at with regard to this legislation?

Mr Ng: We haven't decided what the inspection or reinspection cycle should be and, like I said earlier, we're looking at some sort of a legal mechanism to allow us to do the reinspection in the future. So our ministry, together with MMA, has been looking at that option. I don't know what stage we are at in terms of directing the legislation.

I need to consult with my legal people, but we're looking into that option now.

Mr McLean: Thank you. Can I ask the parliamentary assistant: Are you planning on bringing some amendments through which would deal with this issue that we're talking about here with regard to the septic systems in Ontario?

Mr Hayes: As you can see, I don't think it's any secret here that this is a real sticky issue. Excuse the pun. As Mr Ng has said here, there are discussions going on between the two different ministries and for me to say we're going to come with amendment immediately—I cannot assure you of that. As we know, this is not an easy issue to deal with. We're going to do what we can to resolve it.

Mr McLean: But it is your plan to bring an amendment in.

Mr Hayes: I didn't say that, Mr McLean. I said we're looking at working out ways to resolve this problem.

Mr Murdoch: One question: In your expert opinion, if a septic system is installed properly with the proper tilage around and the proper soil, will it work?

Mr Campbell: Yes, I believe it will.

Mr Murdoch: Okay. That's all I want to know.

Ms Haeck: Mr Chair, I wanted to place a question for staff, which doesn't have to be answered now.

The Chair: All right.

Ms Haeck: It's obviously something I'm expecting in writing and it may be that the two groups will have to get together. I would like to get an overview of the regulations relating to—because I'm not happy with the answers relating to composting toilets.

In particular, I would like to find out across the country what the regulations are relating to composting toilets. I would like to have a clear understanding of what is impeding their ability to be used more broadly in the province of Ontario. I would like to get an understanding of what in fact are the problems relating to grey water at the current time. Obviously, as your last comment to Mr McLean, relating to the spreading of the seepage or the

compost tea—what regulations are in place to affect that, be it for composting toilets and other systems? I think that's all for right now. Thank you very much.

Mr Wiseman: I would like to add a question to that. I'd like to see what kind of testing is being done on the sewage with respect to being sure that we don't have PCBs, heavy metals and other contaminants being spread on the agricultural land from the sewage treatment plants.

The Chair: Just as a question to you, do you need these questions in writing or do you have them?

Mr Ng: I think what we'll do is prepare a package for the members' information.

The Chair: Very well. Okay.

Mr Ng: Shall we submit it through yourself?

The Chair: Do all the members want a copy of the answers to those questions?

Mr Curling: Yes, we do.

The Chair: Very well. Give them to the clerk and she'll give them to all the members.

Mr Perruzza: Can I add a question to that as well, since we're on the subject? I appreciate the two gentlemen are here to do a job and I don't mean to pick on them. Obviously, they're in the hot seat. I respect their abilities and the work they do and I can understand the magnitude of the problem and why they would say some of the things they've said.

My question for them to answer is: Could they provide the committee with a technical analysis as to why they believe a system that is installed properly over the years will not fail?

Mr Campbell: I don't believe I said it wouldn't fail. I don't believe I said that.

Mr Perruzza: No, but a system that is installed properly will work properly ever thereafter. I completely disagree with that, because everything I know about this stuff is—

The Chair: Mr Perruzza, I'm sorry, we don't have the time.

Mr Perruzza: But I'd like to have the technical analysis in the form of an answer, Mr Chairman, please.

Mr Ng: Mr Chair, can I offer some of my personal opinion of this issue? We all know that things will fail; it's a question of time. I don't think that is a fair question to us. If you can ask us whether a system will fail in 20 years or 30 years, we may be able to provide some answer to that question. But if the question is, will the system fail?—I don't believe we'll be able to answer that question.

Mr Perruzza: No, a technical analysis of how the system is installed, the depth that it's installed, the materials that are used and the pressures that come to bear on that system, because I suspect most people would be able to make a fairly accurate assessment for themselves how long a system like that could last, given our weather situation here in Ontario. That's what I'm looking for.

The Chair: If that's clear, that's fine.

Mr Perruzza: It is clear.

The Chair: If not, we would ask the member to write something else—

Mr Perruzza: He knows what I'm talking about.

The Chair: All right. Mr Hayes, anything?

Mr Hayes: Just two quick questions, but mine are quicker than most people's one question. You talk about records not being available. I'm sure each municipality knows how many households it has and I'm also sure it could find out how many people are on the sewage treatment plant and subtract that number to find out how many are on the septic tanks, wouldn't you think?

Mr Ng: We've got very good information since 1982. We know we have issued over 270,000 C of As since 1982. But we don't have a good database prior to that, so all the information may not be there and this is what we refer to when we mentioned records.

Mr Hayes: How widely is this circulated? Do the individual households get this, because I think it's a good booklet and it would certainly help many people understand the system they have when they buy their house especially, because I haven't seen this out in public.

Mr Campbell: The document Care and Feeding of your Septic System—there were initially 30,000 copies printed up that were distributed to various organizations and district offices of the Ministry of Environment and Energy. There are currently an additional 65,000 copies to be delivered to various organizations again. The health units primarily, our delivery agents, will receive a number of copies available to them that they will distribute with each new applicant. They will be available at their offices, at our offices, at any other government agency offices that wish to use them for free distribution to anyone who requests one.

The Chair: We want to thank the Ministry of Environment and Energy staff for coming and for providing the information to this committee. This committee is recessed until 1:30.

The committee recessed from 1234 to 1340.

GREEN DOOR ALLIANCE

The Acting Chair (Ms Christel Haeck): We are hearing deputations and our next order of business is to call forward Green Door Alliance Inc, Ms Marion Thomas and Mr Lorne Almack.

Mr Lorne Almack: I hope we have a good representation. I appreciate those who have come to the committee meeting and are in attendance. The Green Door Alliance is the successor to People or Planes, POP, an organization which some of the longer-term—I was going to say older—members of the Legislature will remember.

POP was supported by the official opposition, which was Stephen Lewis's NDP caucus, and was supported by the Liberal caucus, who opposed a Pickering airport—the Liberal caucus did, although the federal government was imposing it. Finally, it was Bill Davis who blew the whistle and really cancelled it. So POP has pretty deep roots.

The successor to POP is the Green Door Alliance because, way back in 1979, the last constructive thing that POP did was put out a little booklet called The Last

Green Door. This was a challenge to the people who govern us to save this green space on the northeast boundaries of Toronto, including some of Scarborough, and we have done that already with the Rouge Park. That's a good start.

So the Green Door Alliance has continued on, and now that it's pretty certain that there won't be an airport—Cedarwood city, with 250,000 people, is dead—we have this huge public asset out there which we want to promote. If the Planning Act were strong enough that it could be planned and saved through zoning and planning, we'd be happy. But we're not really convinced that Bill 163 would do the job.

Now I'll get back to my notes. There's a vital need for reform, and if you read my little booklet, I've got a whole section on reform and in the appendices some statistics from a new publication by the World Watch Institute. This is a very highly respected journal. If you look at these statistics, you will see we are living in a changing world. We cannot plan for the past. There's an old saying that generals always plan for the last war. I suspect the President of the United States is doing that right now. But we've got to plan for the future, and it's going to be a very different future than the past.

That's not going to affect me. I'm 71 years old and I'm comfortably off, thank goodness. I've been a developer, I've been all kinds of things, so I've been able to make a little bit of money. But I have four grandchildren and I fear for their future and for all human beings who are coming after us. My God, we have to have a sustainable future, and this is what we are appealing for you people to ensure, that the people of Ontario have a sustainable future.

Needless to say, we need reform because of the population explosion. But we need reform because we're broke and, if you don't think we're broke, you're kidding yourself. We are so broke—I have a son who's a high school teacher at Donovan Collegiate. He has three grade 9 science classes. He only has textbooks for one class. That's how tough things are. Everybody's cutting back. But in the meantime, of course, we're building a trunk sewer from Whitby up to Brooklin. Millions and millions in Ajax—\$45 million for a new water treatment plant.

You know, we've got our priorities a little mixed up sometimes. We're broke, and the future is very different than the past. Don't plan for the past. I have one councillor on Pickering council who says his vision for Pickering is that the north be a mirror image of the south. Well, it cannot be. We'll never have enough money for infrastructure. We have to learn to act differently.

Bill 163 started out as a reform when John Sewell in his early commitments came up with very reform inclined ideas. But he's a man who strove for a consensus, and he wanted a consensus between the development industry and the environmentalists. I'm telling you, you can't get it. They have a different perspective. So he diluted his policies and his recommendations considerably. Then the drafters of Bill 163 came along and further diluted it until—what have we got? This is pretty weak.

The policies themselves are pretty weak. For instance, it says, "Development should be serviced by full municipi-

pal sewage and water services wherever feasible." Why throw in a great big loophole, "wherever feasible." Wherever feasible to whom? In whose opinion is it going to be feasible?

"Prime agricultural areas are included in the extension"—this is an extension to municipal boundaries—"only if there is no reasonable alternative." Again, reasonable to whom? The guy who owns the land and wants to make a couple of million bucks on flipping it over on rezoning? Reasonable to whom? That kind of vague language has no place in Bill 163.

We conclude that the policies designed to replace the provincial appeals system, and you're delegating huge powers to the municipalities on the basis that you're putting in strong provincial policies to look after our provincial interest, are not strong. Time will tell whether we've really weakened the planning system in Ontario or whether we've strengthened it. It's in doubt.

The goal should be to manage land to ensure the people of Ontario a sustainable future. I think the Ontario Environment Network and CELA have complained that the drafters of the bill ignored Sewell's recommendation on purposes and put their own purposes in, or somebody else's purposes. We need to go back to that and certainly where it says it's got to be economic, I don't know where that word "economic" came from. It's another vague word. It means all things to all people.

The key is reform, and that is what we should be planning for, reform and planning for a sustainable future. Urban sprawl, which is our number one disease that planning should control, is not sustainable; it's not affordable.

Let me wrap this up because I know you have a heavy schedule. I just want to say that our economic future and prosperity and the quality of life of the people in this province depends on conservation of food land. If you look at the statistics, food land per capita in this world has been dropping for the last 10 years. It's down 12%. We're producing less food and more people. Here we have some of the finest agricultural land in the world, the finest climate and we're blowing it. We don't need to.

Urban sprawl is not affordable, I assure you it isn't, and any developer who keeps buying farms and thinking he's going to be able to develop them is not. Economic forces are going to put him out of business. He'll be like the office tower developers were 10 years ago. He's ready to go down the drain, and even if you're a good Tory, like I sometimes am, you would make sure, protect him from himself, because he's going down the tube.

1350

We cannot afford urban sprawl. You are finally going to have to say, "No more grants for regional roads, no more new school buses, no more schools until you utilize the empty schools in the inner city of Scarborough and Oshawa." In Oshawa inner city schools are half full, and we're spending millions building new ones and we're going broke. If you think we're not, boy, you're not reading the budget right. I used to be in the management consulting business with a big financial firm, so I speak with some relish about some of these financial matters.

The future can be healthy. We can have affluence and a humane society. We may live in smaller houses, we may drive smaller cars, we may use more public transit, but we may have purer air, cleaner water to drink and wholesome food grown in Ontario, I hope. We might even feed some of the world's starving children, and there are millions and millions of them.

We could have access to a healthy countryside and benefit from a stronger—come on—economy. We cannot build a strong economy with a spendthrift growth. We have to have affordable housing so our workers can demand reasonable compensation. We desperately need to reform our planning system to meet the challenges of the next century.

The Green Door Alliance urges you to support the very modest amendments proposed by CELA and the Ontario Environment Network. In my report I highlight a few of the amendments you should make, but I'm going to leave it to the technical people at CELA to write the legalese to bring this thing back into line and have a true reform.

I thank you very much. I welcome any questions.

Mr Grandmaitre: I agree with you that any kind of reforms, especially planning reform, should be people oriented. You say that Bill 163 is not really—well, when I say people oriented, that it should be sustainable for the next three, four, five or six generations. We can't plan 100 years ahead of time, but we should be reasonable enough to manage our land for the next two or three generations. What would you have liked to see in Bill 163, removing all the fancy words, as you call them, the economic and social and so on? What would you like to see in 163?

Mr Almack: Let me just give an example, on the food land issue, which used to be a big priority for the present government, before they were elected—

Mr Hayes: Still is.

Mr Almack: Yeah? Still is. Okay.

Why don't we just say, "Development on Canada land inventory classes 1, 2 and 3 shall not in the future be permitted." Now you've got tens of thousands of acres already in the pipeline, and it's going to be difficult or probably unjust to stop those. But my God, at least way down the line, let's not quit developing our best food land. Our agricultural resource and the Christian Farmers are coming in here this afternoon, and I just switched my membership from OFA to the Christian Farmers because I like what they have to say. They are thinking of the future.

We just say it shouldn't happen, unless there's no reasonable alternative. There is always a reasonable alternative. Scarborough, Oshawa, Whitby, urban Oshawa could accommodate all the growth within their existing boundaries. They don't need to expand. It's going to happen anyway because, as soon as you free up where people can make duplexes and redevelop, the amount of vacant land, when you come on the GO train from Pickering, there are thousands of acres of vacant land.

Why in hell don't we develop that before we sprawl up to Brooklin where there's a pocket of the finest land in Canada, flat loam till, grows 150 bushels to the acre, 40

bushels of soya beans aren't unusual, and we're blowing it. This act should've stopped that but it is not. It has been watered down. Somebody's got to you. There aren't enough environmentalists around. They haven't got enough money.

I published this little report at my own expense. Well, Green Door Alliance inherited \$1,400 from POP that was left over from the POP organization, \$1,400. You're spending that with your staff here this afternoon.

Mr Grandmaître: Every hour.

Mr Almack: Did I answer your question? What can we do? We can tighten up on food land. We can tighten on the other.

The Chair: He has another question for you.

Mr Grandmaître: When you talk about class 1, 2 and 3, that these lands should not be developed, don't you have any faith in the government when they say if it has a provincial interest, we will step in and put a limit to the development? Don't you have faith in the government to put a stop this?

Mr Almack: I have faith in the law, in the legislation and what the legislation says and, you know, I don't trust any government. Quite frankly I don't. Governments are even better if there are a few watchdogs, old guys like me around complaining. They perform better, don't they?

Mr McLean: Welcome to the committee, sir. I looked at some of the statistics that you have, where you say 50% of the best farm land in the GTA has been urbanized and in five years from 1981-86 some 50,000 acres were urbanized. That's a staggering statistic. I think you're right. A lot of people are not aware of it. When I drove Highway 2 going to Oshawa a week or so ago, the urban sprawl is tremendous, and I don't see any major new highways that are going to look after that.

Mr Almack: To drive up Yonge Street makes me ill. I've been around long enough to see what Ontario used to look like.

Mr McLean: I want to ask you a question with regard to the mineral aggregate policies. It concerns me and I want a clarification. The supplies of gravel and gravel substitute such as trap-rock which could economically be supplied to southern and central Ontario, you say there is no need to open pit mine southern Ontario for gravel and you're saying there's pre-emptive land over the vast area of the Oak Ridges moraine allocated to gravel to provide enough concrete to pave all the farm land in Ontario. Are you saying there's enough gravel in southern Ontario around Maple and in that area?

Mr Almack: Well, the whole Oak Ridges moraine. Uxbridge is the big area and I happen to be on the board of an organization called the Foundation for Aggregate Studies, which tried to interest people in not open pit mining the whole Oak Ridges moraine. You fly over Uxbridge and along that moraine between Richmond Hill and Omemee, my God, it looks like a moonscape. You know, we don't need to do that.

One of our colleagues on this is Beer Precast Concrete. He used to pour more concrete than any in Toronto. He built on the fascia on the Toronto city hall. He says the best concrete comes from crushed trap-rock. We used to

bring a train of it down from Marmora. You know the open pit mine there? It's the stuff off the top that has no iron in it. You crush it up. There's no natural gravel over in Buffalo. They don't have any. It doesn't hurt their economy if they don't have any. They crush rock and you can haul around a unit train. That train that came down from Marmora used to have 85 cars on it.

Mr McLean: Well, the Uthoff quarry is a perfect example I guess. That's one of them and there are others in Mara township which crush rock, lime, and haul it south. I see we're having a delegation this afternoon, Lake Dalrymple Association for Safe Environment, and I know what that's all about. They're trying to locate a quarry within that area and what you're saying today, there's no need of any more new quarries.

Mr Almack: Well, if we're going to open pit mine iron at Temagami and Marmora and places like that and Steep Rock and we have all this overburden, why waste it? Why not use it for aggregate, wonderful road ballast, better than aggregate A. But mind you that's not what the aggregate producers are going to tell you. They'll give you another story.

Mr Murdoch: One short question. I understand what you're saying about our good farm land being used. I go up home by Hart Lake Road and the big development that's going into Brampton right now, 4,000 acres of the best farm land in Ontario is being developed into housing right now. Would you agree to incentives to move some of our industry to other locations like Owen Sound and maybe further northern Ontario rather than taking up all this good farm land here?

Mr Almack: I think we ought to let the ingenuity of our entrepreneurs and our free enterprise system look after that. We say, "You're not going to build on class 1, 2 and 3 farm land. Now go and find another solution." They'll find another solution. They might even redevelop some of the vacant lands. Markham has a huge industrial area. You look at it. It's got coverage of probably 10%. The vacant land is immense. It has already been ruined and bulldozed up. It's just sitting there. There's no shortage of places to build factories.

Mr Perruzza: Don Cousens is going to fix that though.

Mr McLean: He probably will.

1400

Mr Wiseman: Thank you, Lorne, for coming in. I'd just like to talk to you a little bit about how we make sure that everything is clear. Your comment about preserving class 1, 2 and 3 farm land—I had an interesting discussion with one of the developers in Pickering and he said: "You just tell us what the rules are and we'll follow the rules. But don't put in any wishy-washy words, that maybe I have to follow the rules and maybe I don't, depending on what the council will do."

Let's talk a little bit about zoning and official plans. In your opinion, do we have a strict enough code so that the zonings actually mean anything in terms of development, and also with respect to official plans and official plan amendments? Are we making the official plan strong enough to prevent misdirected official plan amendments?

Mr Almack: The past has been terrible. Anybody could get an official plan amended. But I don't want to be too negative. This act is a gesture in the direction of reform and I think you have diluted Sewell's recommendations on the content of official plans, and that is unfortunate. You're not talking comprehensive planning or watershed planning or any of those things that are not required in the official plan.

Since this debate started, you approved Durham official plan, which I think is a disaster. It urbanizes everything up to Highway 7. There's very little good land north of there. North of the Oak Ridges moraine, there's practically none. There's no class 1 land up there at all. If your planners thought that approving the Durham plan would make it compatible with this new Planning Act, then I am disturbed. It's pretty weak.

The Chair: Ms Haeck, you have one last question?

Ms Haeck: Yes, you raise on the final page of your presentation an interesting point for me, because we've been dealing with this issue locally. We've been talking and we have some sense of where Virgil and some of these places in the Niagara area are. You say, "Do not fund trunk sewers to service prime food land." In putting in some of these water and sewer lines, what has your experience been?

Mr Almack: This one is running from Whitby up to what you've just—somebody in the government has approved millions of dollars to subsidize it. That is going to cause pressure for subdivisions surrounding this little town of Brooklin. The development follows the sewers. That's why Markham and Vaughan are such a disaster, because years ago we built a 12-foot sewer that goes from Pickering clean up to Newmarket.

If the taxpayers of Ontario are going to pay all the infrastructure costs for urban sprawl, the developers are going to take advantage of it and build the housing. You want to build roads for them, you want to build Highway 407, that's just to service urban sprawl. Now it's already sprawled out in Markham so maybe you've got to build it over to the Pickering town line. But stop the sprawl now. We can't afford it. We can't afford all this automobile travel. We can't afford the pollution it produces. We can't afford that kind of expensive economy.

REGIONAL CHAIRS OF ONTARIO

The Chair: We invite the regional chairs' committee, Chairman Peter Pomeroy.

Mr Peter Pomeroy: I have with me this afternoon Pat Murphy. Pat and I work together in Halton region. He works in the planning department and has had some considerable input into the suggestions that led to the final submission by Mr Sewell, both through the planning commissioners of Ontario and his work with the AMO committee on planning reform. As a matter of fact, I served on that committee as well.

Just to give you that little bit of background, let me address you in this way, to say that the Regional Chairs of Ontario have for some time advocated improvement in the planning process in Ontario. We've provided feedback and input to the province and to the Sewell commission.

On behalf of the other 12 people who serve on the regional chairs' committee, I'm pleased to be here to continue the dialogue with the province. I'm not going to take a whole lot of your time or get into details on the changes that we believe would be helpful in considering Bill 163. Rather than that, you've had, as I mentioned before, submissions both by the regional planning commissioners and by AMO, so you're very familiar with the point of view that most municipalities bring to this table.

But I'm here to address one issue that the regional chairs and myself personally feel is an extremely important point. That issue is the decision of the province to exclude Metropolitan Toronto from receiving assigned lower-tier official plan approval authority. This decision, in our opinion, is in direct conflict with both the spirit and the intent of the planning reforms that we've all worked so hard to develop over these last number of years. So the regional chairs' committee strongly supports the need identified by Mr Sewell to better define the roles and responsibilities of the province, the regions and the local municipalities within the planning process.

It's quite evident from reading Bill 163 that the provincial government has in fact accepted and endorsed the need for a model of planning in which each order of government has clear roles, clear responsibilities, clear authority and, more importantly, accountability. This construct is fundamental to the improvements sought by Sewell and in large measure delivered by Bill 163. When I say it's fundamental, I mean exactly that: It's fundamental to the public's understanding of the planning process in Ontario, it's fundamental to the improved accountability sought by all participants in the planning process and it's fundamental to the effective delivery of public policy by each level of government here in Ontario.

The proposed model suggested by John Sewell and evident in Bill 163 is clear and consistent, and we spent long hours debating that between all of us, along with Mr Sewell. The province provides overall policy formulation through legislation and policy statements, the regions and the other assigned upper tiers prepare official plans that deliver provincial policy in a consistent manner as well as ensuring adequate policy to address all major regional responsibilities and the local municipalities in turn secure their interests by developing their own planning policy in a manner that has been consistent with both the region's official plan and the provincial policy. I think probably you know all of that.

This is a model in which each level of government has a clear role and in which each level of government has the planning mechanisms to ensure that their legitimate roles and responsibilities are delivered. The major purpose of this reformed approach to Ontario's land use planning system is to streamline how planning decisions are made by the various levels of government. The more efficiently this process works, the more quickly good, environmentally appropriate development can proceed and this in turn creates jobs and it stimulates the economy.

This reformed approach also intrinsically recognizes what Mr Sewell, Mr Crombie and others have been telling us for some time now, and that is that planning

must be undertaken on a wider and more comprehensive scale if we're to properly protect the environmental systems and, as the gentleman before me spoke to, supply the needed infrastructure in an efficient and cost-effective manner.

Given broad provincial planning objectives, the role of regional plans is to provide a localized context for both the regional and the area municipalities while ensuring a more comprehensive view of the whole planning process, and that's in keeping with provincial policy direction.

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As Mr Sewell said, upper-tier or regional planning is the most effective method of dealing with such issues as watershed and environmental systems, the provision of water and waste water infrastructure, intermunicipal transportation and the overall distribution of employment and activity centres in order to secure the best possible live-work relationship.

Planning is all about growth, and growth depends on capital investment and the provision of urban services. If I keep referring to regions, and all of you aren't familiar with them, it's the level that I'm most familiar with so I'll use that as an example, but there are other good levels of municipal government that can look after planning as well.

The regional level of government is directly responsible for the majority of costs associated with urban growth, and therefore it is essential that regional municipalities must have the legislated capability to make decisions on the way growth occurs within regional boundaries.

What I've just said is obvious to the members of this committee, and indeed I think you're all in agreement and I'm restating facts that most of you are in agreement with. In fact it's precisely the way Bill 163 is designed to operate, with one notable exception. For some reason, the single largest regional municipality, Metropolitan Toronto, got left out. The logic of this is a complete mystery to our group. The government has carefully considered the whole construct of the planning system and quite properly decided on the appropriate role for upper-tier governments in the reform planning system.

It seems inconceivable that the one regional municipality that is most in need of controlled infrastructure investment, the one municipality that is the heart of the Toronto bioregion and the one regional municipality that is recognized worldwide as a leader in municipal administration somehow has been excluded from receiving the most fundamental of the powers necessary to ensure proper planning.

This decision is also difficult to understand in the context of other recent provincial decisions and actions, notably the province's support, and certainly mine, for directly elected regional councils; the recognition by many of us, not only here in Canada but all around the world, that there are just too many municipal governments for the senior levels to effectively deal with and that there need to be less; the emphasis on broader-scale environmental planning; and the establishment of the whole GTA planning exercise, as examples.

Again, all of these major provincial initiatives seem directly contrary to the decision not to grant approval to Metropolitan Toronto. It's impossible for me to understand how anyone would expect Metro to be a full player in the GTA planning if it does not even have the power to control its destiny within its own boundaries.

In conclusion, your committee members might be curious about the reason that all of the regional governments in Ontario are worried about Metro not getting the same powers as other regions. The answer is quite simple. We feel, collectively as a group, that Metro Toronto is the heart that drives Ontario.

You could get some argument on that from good people like Bill Murdoch and some of the others who sit on this committee from around Ontario, but I don't think you could disregard the fact that how Metropolitan Toronto goes, so goes the rest of the province, as the centre of the most economically productive region in Canada.

It's absolutely crucial to all of us that Metro Toronto continues to grow in an orderly and sustainable fashion. We believe that the power to control that relationship between land use infrastructure and the natural environment is an essential element of our continued economic success in an increasingly competitive world market.

Again, I think we're missing a terrific opportunity to include Metropolitan Toronto in the overall greater Toronto area planning and it would be most regressive, in our opinion, if that did not happen. We believe that if it doesn't happen now, it's just a matter of time, and we're not sure what the reasons are that would lead any government to come to the conclusion that this one has. I'm totally not sure that any other government would have done it either.

Thanks for the time and the attention. I hope you'll carefully consider this narrow point of view on that one single issue that is very important to all of us.

Mr McLean: Welcome to the committee, Mr Pomeroy. You are one of the few who has said that the concept of "be consistent with" is a significant improvement over the current alternative of "having regard to." Most of the people we've had before us don't agree with that. They say the opposite.

Mr Wiseman: No, I wouldn't say most.

Mr McLean: Yes, most.

Mr Murdoch: I would agree most, yes.

Mr Wiseman: Most ratepayers—

Mr McLean: You'll have your turn when it comes.

The Chair: Sorry.

Mr Pomeroy: It's okay. I'm used to working in this environment, so I understand it. When we first heard the words "be consistent with," it certainly was counter-productive and counter to what we initially had been used to dealing with. There's no question about it. But as we worked through the process and as we became more comfortable with the explanations that were coming from Mr Sewell, and we worked very closely with him, we became sold, I guess, that there was some basis for the changes and we did our best to try to understand them.

Certainly there isn't a total consensus in the province. As a matter of fact, there are a lot of people who didn't work as closely with the process as we did. I'm happy—not happy, but I'm supportive—at this point in time, until it's proven otherwise, that we did the best that we could do given the circumstances and that there was no further room for negotiation on that point and therefore we chose to go with it.

Mr McLean: The other question I have has to do with capital investment and provision of urban services. From reading in your brief it appears to me that you feel that the majority of those costs are paid by the local municipalities or the region. I have a feeling that there's going to be more of that happen as time goes on. There's going to be more of a putback onto the local municipalities, once they get more approval powers. Would that be your observation?

Mr Pomeroy: Yes, absolutely. Let me put it this way. I don't think it's any mystery that the available provincial funds for tremendously large infrastructure programs are there. I mean, quite the opposite has been true, given our experience, over the last 10 or 15 years, except for this little bubble with the infrastructure funding that we now have.

The trend is clearly to allow municipalities to support themselves more and more from a financial point of view, or look for funding partners or whatever it is they have to do. The development industry was the target for a number of years through a lot of the exercises you're familiar with.

We believe that's going to become more and more the way business gets done with respect to development and that one of the reasons that the planning support and approval authority for regional municipalities was even a thought was so that it became a natural progression to support that point of view. I don't think that there's any doubt that we're going to be more directly affected by the responsibility for funding infrastructure.

Mr McLean: Bill has a short question here, then I have one more.

Mr Murdoch: I just want, Al, to clear up a misconception. I agree with you that as long as Toronto grows, the rest of Ontario grows. Where I have the problem sometimes with Toronto and the Toronto mentality is, and that's just what Al happened to mention to you, this phrase "be consistent with" instead of "have regard to."

What I find is a lot of the bureaucrats or the planners in the different ministries live here in Toronto and they have no idea, and Ag and Food is a great one to look at because they have no idea really what farming is all about. They look down Bay Street and that's all they understand, so they get onto this bandwagon where 1, 2 and 3 lands have got to be saved.

If they really went out into the real world and worked some of the number 3 land in areas like mine and some of the areas in rural Ontario and northern Ontario, they'd know that they just can't set a policy that we have to save some of this land, because some of it will never be worked.

If they'd actually done some of the work themselves,

they would understand that, but most of them haven't done any in their lives.

That's where the problem comes with Toronto, because we get to the fact and say, "Well, it's the Toronto mentality." But I agree with you that if Toronto grows, it is the engine that drives Ontario. There's no doubt about that.

Mr Pomeroy: I happen to live in an agricultural community and it's under tremendous pressure for growth itself. I guess that's one of the oldest questions ever asked, not only in the province of Ontario but in almost every growing country in the western world. The answer to why we grow where we do is simply that that's where people want to live. All we seem to do is slow it down and drive the costs up by trying to force people into areas that they don't want to go. In Ontario it happens to be along Lake Ontario, which provides the best of the farm land almost, except probably for southwestern Ontario, of anywhere in the province. That isn't going to change.

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I guess the point I was trying to make is simply this: If we aren't as planners, all of us, and that's what we are, prepared to look at an integrated planning process for all of the GTA and not leave Metropolitan Toronto out, because that's effectively what you've done, you create a situation whereby your decisions lead you into the same kinds of problems that all of the inner cities in North America have had.

Toronto is not unique. It just happens to have grown in a little bit different fashion. That's what Sewell was saying: If you don't get some integrated planning and stand behind that process, then you're going to create an inner-city problem not unlike you have in New York City or Chicago or all of the other large North American cities.

Make it a true partnership and get on with the planning exercise and make sure they sit down together on a regular basis and make sure that the mentality is one that leads us to the conclusion that this is one big urban centre and it has to be planned as such. Really that's where I was coming from.

Mr McLean: I have another short question. Regional planning approvals have, for the most part, been delegated to senior staff. Do you think that the senior staff should be making the decisions with regard to minor variances?

Mr Pomeroy: It depends on the community, Mr McLean. We don't do minor variances at our level, but I was part of an area municipal government and, quite frankly, those kinds of decisions can only be as good as the people that you assign to do them. We have great confidence in the planning process in our community and we have good people like Pat here and our commissioner, Mr Mohammed, who has done a lot of work with the province. I think we've established a very good working relationship and that in fact they trust this process.

Is it going to work every time? Absolutely not, but it probably is going to add a little bit of speed to the process, and from a politician's point of view, it's a hell of a lot better—excuse my language—it's an awful lot

better to have assigned staff deal with them based on direction from the politicians than to have the politicians do it themselves.

Mr White: Thank you, Mr Pomeroy, for coming before us and for your presentation. We had earlier today a number of presentations from the GTA, the GTA mayors' committee, the social planning council. The Social Planning Council of Metropolitan Toronto actually spoke very highly of your region as including an integrated planning system that included social planning and some of the tools and instruments that they're trying to develop along with Halton region, and I think it's very commendable.

I'm wondering, in regard to your position, you're saying basically you are in support of the delegation of the power to approve local area official plans to the regional municipality and that represents the view of the regional chairs. In your own regional municipality, this would be something where the local municipalities would be in favour of that delegation as well, would it not?

Mr Pomeroy: As a matter of fact, to answer your question, I think the simple answer would be yes. It's tough to qualify an answer like that in just a couple of words, but the region has been doing approval of local official plans for some years now in our community. We've had the delegated authority and it's worked, for the most part, extremely well. I guess the true test of that is the problem that the Ministry of Municipal Affairs might have with it. I think that they would echo those comments.

Mr White: I certainly know that in Durham region the local municipalities are in favour of the regional authority there and I understand from Mayor McCallion's presentation that that's true in Peel region. What if there was a difference, though? Do you think that should throw caution to the province in delegating that authority?

Mr Pomeroy: I think that having differences is healthy as opposed to just being considered as confrontational. There isn't always going to be a consensus on what the area municipalities consider to be Big Brother or Sister looking after their planning issues.

I'll tell you what it has done in our community. It forces the area municipal staff to sit down with the regional planning staff and to work the differences out and, where there are affected constituents, bring them in and make them a part of the process. Eventually, at the end of the day, if that can't be done, the councils then speak and deal with it; and, of course, there's a further adjudicating authority after that.

Pat, could you tell me how many times we've had a conflict between the two plans, where it eventually went to the Ontario Municipal Board?

Mr Pat Murphy: We've never had a conflict between the area municipalities and the regional plans since we got the authority to approve local plans in 1989 that has gone to the Ontario Municipal Board. They've all been adjudicated.

Mr White: I'm certainly glad to hear that. My concern is that we heard this morning that the local municipalities in Metro Toronto wished to have the province

remain the approval authority. That was from the GTA mayors obviously, and I'm sure you're aware of that stance. We haven't heard from the municipalities to that effect. We have heard it from the GTA mayors and we've heard the concern from Metro and from yourself and from other folks within the regional perspective. How do you think we should resolve that difficulty?

Mr Pomeroy: Politically it's a very difficult issue, because I think there are 35 municipalities in Metropolitan Toronto. It's a large number anyhow—I'm not sure how many it is—and there's never going to be total agreement. The solution is that if the province, which is the ultimate provincial planner, decides that it's a more healthy situation that the Metropolitan Toronto situation be consistent with the rest of the greater Toronto area and the rest of the province indeed, then it's got to make that decision and it's not going to be an easy one to make.

That's really why I decided to bring the point to the table on behalf of the regional chairs, if they'd let me. I feel very strongly about one single planning approach to the greater Toronto area. It isn't to the benefit of the regions outside of Metro; it's to the benefit of Metro and the city of Toronto that that happen in fact.

For a number of years—I know this is kind of a long answer—I'm a perfect suburban resident in the greater Toronto area. I used all of the amenities that go along with the big city. I came into Toronto for all the sports events, for all the cultural events, for everything that I had to do. All the people who came to visit me, we went to Toronto to use the amenities that were being paid for by somebody else.

That role is changing and there are tremendous pressures on the inner cities now, created because of suburban development—you heard that before—and it's time we started to think about paying it back. I believe that it's totally to the detriment of the inner city if there isn't one single planning body in Metropolitan Toronto that works in conjunction for planning purposes with all of the rest of the communities in the greater Toronto area. That's certainly been my strong point of view since the concept of GTA was created.

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Mr Grandmaître: Mr Pomeroy, your group, the regional governments in the province of Ontario, represent between 85% and 90% of the population of this province—maybe over 90%, I'm not too sure—and you were in the meetings with John Sewell and also with the minister, if I'm not mistaken. How come your plea for Metro to be treated as all the regions are treated was ignored? How come you were ignored? What reasons were given to you?

Mr Pomeroy: Interestingly enough, we weren't really given a reason. We were most surprised when the bill was brought forward and the explanation on how Metro was going to be treated actually was made public. We saw an interesting kind of metamorphosis take place during the discussions and the debate because Mr Sewell—I remember at the first meeting with AMO that I attended, he and I had some discussion about the value of a regional government in the municipal context in Ontario.

I felt that, just based on what he had said, it was because of his Metro experience that he really didn't know that outside things weren't quite as bad as some people portrayed them to be. In fact the role of regions or upper-tier governments in planning, having delegated authority, didn't work that badly. What we said was: "Go and find out for yourself. Don't take my word for it because obviously I'm so close to it I'm biased, but go and find out."

If you look at the Sewell report as it came back, it very clearly said there's a strong reason for having upper-tier planning, particularly when you're trying to give them all the cost anyway, so why not give them something else to do so that you can do infrastructure planning, infrastructure funding, infrastructure cost and land use planning and social planning and environmental planning all in the same place and let them approve it. If they get out of line, then take the authority back or make it for them, make some sense. He said it, and so I thought, well, at the end of the day we've done a pretty good job here of convincing him what we thought we already knew.

We were totally surprised by the way the announcement came and that they're going to take the idea Ontario-wide, except we're not going to do it in the most important commodity of all, Metropolitan Toronto, which has the most planning problems.

Mr Grandmaître: One short question on the Environmental Assessment Act. You say that your group of people had a paper done on the Environmental Assessment Act, and I read that "the environmental assessment process for municipalities must be fully integrated if there is to be a substantive improvement in these currently separate processes and if we are serious about our objectives to support and promote sustainable development."

Can you explain to me or give me your thoughts on why the Environmental Assessment Act should be incorporated in the development process or in Bill 163?

Mr Pomeroy: I guess I can give you a couple of examples. The first indication that there was a problem with trying to get an approval under the Environmental Assessment Act and then approval under the Planning Act in Halton was when we looked for a new landfill site. Those planning processes took two separate streams, and in the end we had a hearing that basically dealt with all the issues, a consolidated hearing. So we had those two processes, both with a personality of their own, going in separate directions, being adjudicated by different people. It was a horror story, to say the least. I think they're still trying to figure out how to make that one work.

The good example we have right now is that we've just come through a planning exercise in Halton for a new official plan and we've integrated both the planning and environmental planning processes; the land use planning, environmental planning and social planning exercise, into one document. I don't know whether it's been done anywhere else in Ontario, but for the sake of expediency—

Mr Grandmaître: Has it been approved?

Mr Pomeroy: It has been approved by council. It isn't complete yet, but it has been very much supported by the province, both financially and morally, and we think that it's the answer to getting approvals done more quickly. The reason we say that is that no matter how much we're supportive of land use development, if you can't get your mind around the importance or the relevance at least of the environmental approvals at the same time, you're going to continue to be confronted by the groups that are interested in it. You might as well just integrate it, plan it all at the same time, get it approved, and I think the process will be shortened. It has been a difficult process, but it's the way of the future, in my opinion, for sure.

The Chair: Mr Curling, you have a question of staff or the parliamentary assistant.

Mr Curling: Yes, the parliamentary assistant. In their report they agree and support "be consistent with" as an improvement over "have regard for." I wonder if the parliamentary assistant could tell me what the political motivation is behind subsection 34(2): "In exercising any authority that affects any land use planning matter, Ontario Hydro shall have regard to" more than "be consistent with."

Mr Hayes: It's a very good question—

Mr Curling: I know it is.

Mr Hayes: —and it's a question that has been raised by many delegations here. It is an issue we are looking at now to address that problem, and it is a problem for all members of this committee. We're looking at a way to resolve that to the benefit of streamlining the system in Ontario.

Mr Curling: Good response.

BLACK CREEK PROJECT

The Chair: We invite Black Creek Project, Mr Tariq Syed, planning coordinator. Welcome.

Mr Tariq Syed: Good afternoon. I think my brief is just being passed around. I'll just go quickly into a little background of Black Creek. Black Creek is an environmental group that has been around since 1982. We've spent a great deal of our time and effort dealing with the actual creek and what's going on in it. Since 1982, various members have joined together to do a lot of tree-planting work. We then became more specialized in the work we did: We started working on stream rehabilitation work and other such matters.

From there, we have had a lot of success. We've been able to build wetlands, we've been able to renaturalize areas and see the habitat start to come back in the area, be improved and enhanced for the community and for wildlife alike.

But a lot of the work we're trying to do is reaching the point where just planting trees, talking to school children, telling them what's out there and how they can help the environment, isn't enough. We're coming across major development now that we're aware of that is occurring throughout the watershed.

These things are directly related to planning, and the criteria being used are insufficient to protect the environment and the processes in place are insufficient for us as

part-time stewards of the watershed. We'd like to be there all the time, watching council, trying to make the best recommendations, talking to them and teaching them our knowledge and our awareness of what the creek is and how we can help it and, at times, how we damage it, even in this day and age.

So a lot of the work we've tried to do in the last three years has been focused through the land use caucus. The land use caucus is a caucus of the Ontario Environment Network and it's allowed a number of environmental groups across Ontario to come and meet and talk, discuss what issues we found were important to one another and what problems we had in common. Through that, a lot of our energies and efforts have been directed through the Canadian Environmental Law Association. I'm here today, for the first point, to endorse the work the Canadian Environmental Law Association has done and the brief and submission it made before you, last week I believe. A great deal of the work we've done has been focused through that.

I'll just highlight some of the points that we really believe are important.

Mandatory bylaws in the municipalities: These are the types of things we need. We need these tools, as representatives of our watershed and our municipalities, to help council to make the right decisions at a local level. All these things are directed as your policies through the province, but when it comes down to the municipality, unfortunately they're sometimes not invoked. The tools are defined but they're not at hand, so making these things mandatory would help us a lot in the work we're trying to do in the watershed.

We're concerned with some of the new powers that are being given in regard to due notice and being able to have standing in front of committees and the Ontario Municipal Board. The government's ability to dismiss referrals and appeal requests on the basis of people's failing to write or speak up at early public meetings is something that concerns us, and we believe it's wrong.

If that's really intended to dismiss people's right to have a say and to object to some things later on when they're not informed of the issues or they're just not aware, unfortunately—a lot of people just don't have the time to follow all the decisions councils are making, and it comes down to a later stage sometimes and they really get concerned; things have proceeded to a stage where they say it's quite far along but nothing's been turned in the ground, nothing's been changed on the ground. So we feel there should be some opportunity for people to have their say still.

1440

Some of the work we've been doing has come across some interesting problems: access to reports. We all work during the daytime and a lot of our work is volunteer in the evenings, so trying to get those reports in the evenings or access to them through the local libraries is just not there.

These types of things are very important to us to allow our members to read through the materials and discuss with us. It's not the work of a few people, it's the work

of many people, and to do it properly we need the assistance of our members and they need to get the material.

Though it might be a bit onerous for a municipality to produce 600 copies of a document, making sure they provide it to the local libraries and other agencies, or groups that have shown a considerable experience and effort put forward in their municipalities—they should be able to receive these documents, at least one or two copies, free of charge.

One other thing we're concerned about is intervenor funding when we have to go to the Ontario Municipal Board. A lot of responsibility is being put to the municipalities. Many people in various groups and local land owners and people who live in the watersheds who are stewards of their areas feel the burden is being placed on them to hold local municipalities accountable. If that's the case, if we have to be going towards the Ontario Municipal Board to challenge some of the decisions made by local municipalities, we feel we should have access to funds to assist us in doing this work.

Particular to the Black Creek, a lot of decisions have been made in the last 20 years. We feel that in terms of some of the things being done, the decisions were made in the past, and as time goes on our awareness changes and we realize we really aren't happy with the decisions being made but it's difficult to turn these things around.

One example is Highway 407. It's a project of the province that's being implemented right now under Jobs Ontario, but there are other documents out there. The Premier's Council on Health, Well-being and Social Justice, in January 1993 released a report called *Our Environment, Our Health*. In that report they said you should "immediately begin integrating human service planning and land use planning to promote the development of communities that recognize the relationship between the physical environment and the human environment."

We look at Highway 407 and we see a lot of impacts from building that highway. It can be easily summarized this way. Highway 401 was the highway that was supposed to help Toronto and relieve congestion. Well, Highway 401 is in the middle of the Metro GTA, and Highway 407 is now the next highway to relieve congestion. How long will it do that before urban sprawl reaches into Richmond Hill, into the city of Vaughan, city of Markham and further north? We jokingly asked the Ministry of Transportation, "So when are we going to start planning Highway 489?" They said: "Well, it's something we're considering. It's on the books."

When you consider all the vast agricultural land surrounding the GTA, where is it going to stop, that we say, "Okay, this is the urban limit"? We have agricultural resources that are not limitless, and we have to protect these areas and we have to produce cities that are efficient and sustainable in many, many ways.

We've looked around the world and seen other cities and the problems they've had that are occurring now that have been on the road—no pun intended—for the last 10, 20 years, the problems they're having in Mexico City, Los Angeles, cities in the South Pacific rim with trans-

portation. That's because the society's based on a car-dominated culture, and those problems concern us here today. Building highways and having \$2 billion in infrastructure capital money spent in that way concerns us, how we're spending that money there now and yet in the future this might not be the best way to be spending our resources.

There's another interesting thing related to cars, and it relates to one of the other recommendations from this report of the Premier's Council. If you look at subdivisions today, about 20% to 25% of the land area in a typical subdivision is devoted to cars: roads, driveways and such. Look at that same subdivision and the surrounding area and maybe less than 5% is devoted to parks. So there's a clear bias that we are a car culture. One of the recommendations in that report that we support is that the park land dedication in the Planning Act should be increased to 10%. We should be protecting our park lands and having areas for kids to play and for people and adults to have as recreational space and open space. It's something we're considering and valuing more and more in today's culture.

I'd like to make some comments about some of the policy statements I've seen. In looking through them, I notice that the only two that really said actively to go forth and identify and protect were the mineral extraction policies and the wetlands policies, which I believe were also goals under policy A. In those, it said actively that you will identify and you will protect these features. That's great for wetlands and it's great for mineral extraction, which is highly supported by the Ministry of Natural Resources, but for the natural heritage and environmental areas that we believe are important it only says they should be protected.

My suggestion to this committee is that we should be actively identifying those areas also and that they should receive equal treatment in that way. We can't protect what we don't know about, and if we don't have the various agencies out there identifying what's out there right now, we won't be aware of them. They could be provincially significant wetlands and we're not aware of these things. So that's one thing there.

In section 1.4 of policy A, a small wording change I believe should be made. "In decisions regarding development, every possible opportunity shall be taken to...." It's one of the few places we really felt strongly that you must have "shall." Again, if you look at the policies for mineral extraction, in almost every case where something significant is said, in every subsection, it says "shall." It's unfortunate that that was the only one that's very strongly worded. The other policy statements don't have that strong support. I think partly it's due to the fact that the Ministry of Natural Resources strongly supports the mineral extraction policies and the other ones don't have the support that one receives.

In policy B, regarding economic community development infrastructure policies, in my opinion, the word "economic" in the context of "sustainable economic development" should be deleted. I know what the term "sustainable development" means, but "sustainable economic development" I don't believe is defined in the

document, and it should be deleted in that sense and you should use the term "sustainable development."

Again, as I mentioned earlier, delete 8(c)(vi) and 9(b)(vi). Those two relate to extensions of urban uses into rural areas, particularly into class 1 agricultural lands. Such extensions will continue. There are always grounds to extend urban communities areas farther out and farther out. It's interesting, because you can talk to people—oh, I don't know, I'd call them older than any of us here—and they'll tell us about the day when all the communities along the lakeshore used to be separate, and we know that's not the case now. You can almost drive from Hamilton all the way out to Oshawa and you can't make a distinguishing feature between all those areas. It's quite unfortunate and it's going to continue to go up north to Barrie and out to the west and out to the east.

It's unfortunate. There are some good municipalities out there that have some really strong policies and are forward thinking to stop this type of sprawl and urban shadow across rural areas, but unfortunately all municipalities aren't thinking that way. Such policies that allow extensions of urban areas into the rural should be deleted.

One last thing: Residential infilling or infilling in rural areas can create strip development. Those types of policies need further definitions and conditions to help people define what is proper infilling. If you're in a designated hamlet, village or town, by all means: If the urban infrastructure's there to support it, those are the areas where you want development. But just anywhere along a country road to say, "We're just going to have some infilling between these two farms" that are maybe three or four miles apart—I don't think that would be reasonable. I'm not sure what terms or definitions they've put on infilling, but my point is just you have to be careful in what people define as infilling.

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Just some final points. The Black Creek Project is looking for your help. We have a number of people and specialists and other people we can call on, but we need the assistance of the municipalities and we need the tools to be in place so that we don't have to worry about various types of destructive uses or practices on properties before there is an approval to a new permitted use. Those types of things where they can go in and fill in a wetland or cut down trees before there's any change of the land use to some other status is quite unfortunate, and those are the things we have to deal with on the ground, in the communities.

We try to work with the developers and the municipalities to develop the best possible community we can, but again it's putting in place the tools that clearly define and articulate those things so that there is no vagueness in them. It's that type of vagueness that becomes very expensive to everybody concerned when they say, "I'm not sure if I can develop or I cannot develop." If development is permitted, clearly say so, that it should be permitted. If it shouldn't be there, the wording has to be clear in that way.

I think that summarizes my points. Again, we have read the submission from the Canadian Environmental Law Association. We were very helpful and were there in

the creation of that document over the last three years. We were also there with the land use caucus assisting in the consultation with the Sewell commission. The work we see here in Bill 163 is very good, but there are still some things we prefer and are very happy with in the Sewell commission final report, with the consensus of many other groups beyond the environmental community, that we hope could be put back into Bill 163. Thank you.

Mr Gary Wilson (Kingston and The Islands): Thank you very much, Mr Syed, for your presentation. I want to commend your group for all the work you've done as you've laid it out. I don't recall, though, whether you said how big the project is. How many people have you got working with you?

Mr Syed: We have about 100 active members.

Mr Gary Wilson: And how long has it been in existence?

Mr Syed: Since 1982.

Mr Gary Wilson: So you've got a good record. As you are a public group, I'm interested in just how you foresee harnessing that kind of public participation. You do mention here about the growing awareness, as you put it, that cars and trucks are not a sustainable method of transportation yet we continue to spend billions of dollars.

How do you explain that apparent paradox, that there is a growing awareness yet we continue to do that? Is not the public involved in that kind of planning that does spend the billions of dollars? In other words, is this not an outcome of planning of a sort?

Mr Syed: The fact is that everything we have around us today is an outcome of planning, or maybe sometimes the lack of planning. I can sum it up in some ways by saying that people wish they didn't have to take their car sometimes. When they add up their bills at the end of the year and realize how much they spend on a car and yet they live in an urban area, they really wish they didn't have to have a car. But there are no alternatives at times.

Mr Gary Wilson: Can you suggest ways that the public can be brought into the process? As you put it here, you seem to think there is a lack of ways that the public can get involved in planning issues.

Mr Syed: As to planning issues like what we're talking with cars and automobile use in general, it's not something we can solve with Bill 163. It's something we need to deal with in the long term. There are policies and tools you can put into place to facilitate and allow pedestrian-based, and I include biking and other forms of transit use, if you help facilitate those types of uses and make it easier for people to travel by those forms of transportation and build it into the planning process.

I cite the document Transit-Supportive Land Use Planning Guidelines. That was a document produced about two years ago in a joint effort by the Ministry of Transportation and the Ministry of Municipal Affairs, and it laid a lot of good groundwork to help people make a choice and have an alternative besides using their car.

Mr Gary Wilson: So there's a way of developing that kind of participation by presenting alternatives from, I guess, planners. Is that who you've got in mind? Just

where do these alternatives come from and how do they get into the process?

Mr Syed: The alternatives would come from many sources. One thing would be to have the opportunity in local planning to present these things, particularly in the new developments that are planned, to identify transportation corridors, where we should have, for instance, street-level rail again. People are opposed to it in certain places, but we know it works quite well where we do have it.

Mr Grandmaître: Your Black Creek project has been quite a success. You've managed to raise \$450,000.

Mr Syed: Thank you.

Mr Grandmaître: You also say that a group like yours should receive intervenor funding. How did you raise \$450,000?

Mr Syed: A lot of the money that we did raise we were fortunate to receive through the federal government through a program called the environmental partners fund. We've had two projects with them, and those easily total in financial remuneration at least \$180,000 to \$200,000. We've also had the support of the Environmental Youth Corps, which is a provincial granting fund that allows us to hire students over the summer, and we've been doing that over the last six summers.

The rest was donation-in-kind work from volunteers and various other technical people who would help us with tree-planting work, designing submissions that would go forth to the municipality for massive tree-planting plans that would encompass the three-year periods. All these types of things give us that dollar value of \$450,000.

Mr Grandmaître: Who should be receiving intervenor funding, what kind of groups? What would be the criteria to receive intervenor funding?

Mr Syed: It would depend on the ability of the group to raise funds and to be there. If they've shown grounds and reasoning for going forward to the Ontario Municipal Board but they lack the resources to be there in terms of having to provide planners, technical staff and expert witnesses as well as having lawyers, if they don't have the resources to bring all those things forward to the Ontario Municipal Board, then that's the time they should start to sit down and possibly discuss it with the Ontario Municipal Board or the agency or the group that is in charge of the intervenor funding program.

Mr McLean: You've worked on and stabilized the bank erosion of 30 sites. Did you get approval from the Metropolitan Toronto and Region Conservation Authority for that?

Mr Syed: Yes, we did.

Mr McLean: Have you worked in cooperation with the Metropolitan conservation authority?

Mr Syed: Yes, we have.

Mr McLean: Have you received any funding from them with regard to some of these projects you've done?

Mr Syed: Received funding from the Metro conservation authority? Direct financial contributions have not been received from the Metro conservation authority, but what they do is donate other skills and materials-in-kind

for the work we do in the creek and valley.

Mr McLean: I'm well aware of what the conservation authorities across this province do. When I was going through your brief, you didn't mention them, and I was wondering if you were doing much the same work as what they would do with regard to the stream bank erosion. They get good money from the government, they get money from a number of municipalities, and Metro is the largest in Ontario with millions and millions of dollars. I was curious what affiliation you have with them—

Mr Syed: We work very closely with them.

Mr McLean: —when you're doing a lot of the same work that they're doing.

Mr Syed: That's very true, but I think the only point I would make is that the Metro conservation authority cannot be working on all the streams and rivers it has in its jurisdiction, which covers quite a large area. Our assistance is valued by them, and that of the many other groups that help them in the watershed in identifying sites. They actively work with schools and other groups and any other agency that will assist in monitoring their creeks and helping to clean up the debris in doing stream bank rehabilitation when the group is specialized enough to do it.

The other group that they work with is Trout Unlimited Canada, and they are working on fish hatcheries in the upper Humber and the upper Credit. So agencies and groups like our environmental group are useful to the conservation authorities because we form a partnership and we're able to access funds from either end and work together to achieve a common end.

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ONTARIO SEPARATE SCHOOL TRUSTEES' ASSOCIATION

The Chair: We invite the Ontario Separate School Trustees' Association. Welcome to the committee. Perhaps you'll introduce the others.

Mr Patrick Meany: I'm Patrick Meany, president of the Ontario Separate School Trustees' Association and a trustee on the Dufferin-Peel separate school board. Carol Devine, our first vice-president, is a trustee on the Metropolitan Toronto separate school board. Mary Hendriks, our past president, is from Lincoln County Roman Catholic Separate School Board. Patrick Daly is our second vice-president and trustee on the Hamilton-Wentworth Roman Catholic Separate School Board.

With us as experts on whom we may call to help in answering questions are Mr Ed Gera, a planner with the Hamilton-Wentworth Roman Catholic Separate School Board; Patrick Slack, the executive director of our association; Mr Earle McCabe, our deputy director; and Peter Lauwers, our legal counsel. Thank you for having us here.

The Ontario Separate School Trustees' Association represents 53 Roman Catholic separate school boards of all sizes and from all regions of Ontario. These boards provide Catholic education programs and services to nearly 600,000 students.

The Ontario Separate School Trustees' Association

submitted two briefs, March 1993 and March 1994, to the Commission on Planning and Development Reform in Ontario. OSSTA has reviewed two documents, one titled Comprehensive Set of Policy Statements and published by the Ministry of Municipal Affairs, and Bill 163.

In the context of the policy statements and proposed Planning Act legislation, OSSTA wishes to provide this committee with the following observations and recommendations.

Under the Education Act, RSO 1990, school boards have the authority to select and acquire by purchase, lease or expropriation school sites that are within their areas of jurisdiction. School boards are required by the Education Act to "provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board," subsection 170(6). This obligation is not a matter of discretion.

Capital projects such as the construction of school facilities in growth areas and the purchase of land are funded for the most part by the Ministry of Education and Training. Each school board provides this ministry with a multi-year capital expenditure forecast which outlines the board's capital projects. This is reviewed annually. Most separate school boards rely heavily on funds received from the ministry in order to finance their capital projects.

Often the funding of these projects comes after residential projects are built and occupied. In some cases, this may be more than 10 years later. In the interim, the board must address the problem of accommodating new students in temporary accommodation—portables—and/or by transporting them to a facility outside their neighbourhood. In many cases, students have had to spend their entire elementary education in portable classrooms without ever attending their neighbourhood school.

This problem is further exacerbated by increased development. This in turn is compounded by current provincial policy emphasizing intensification and affordable housing. The result is that the school boards are constantly trying to catch up to meet the pace of development, with very little success. Improved cooperation and coordination among the various ministries, local governments and local boards is needed in order to correct the planning problems that now exist.

For this reason, policies and acts pertaining to land use planning have a direct impact on the operations of school board.

In the past, school boards in most jurisdictions have had input in various stages of the planning process, official plans, amendments, zoning bylaws and the plans of subdivision. Urban and rural municipalities consulted with boards on matters that pertained to education. It is our general impression that cooperation between these two local elected bodies and their administrations has for the most part been to the community's benefit.

More recently, this pattern of consultation and cooperation has been broken. In some cases, school boards have not been granted standing to make submissions on zoning bylaw amendments that increase residential density and

the need for school facilities. In other cases, municipalities have refused to refer large plans of subdivision to the Ontario Municipal Board for review, even though it was clear that no school facilities would be available for the education of future students. This is a disturbing trend which must be stopped.

What accounts for it? Part of the explanation is in the appetite for land development that all municipalities share. The other part of the explanation is found in the fact that the Planning Act has relatively few references to educational matters. For example, an official plan must have regard "to the equitable distribution of educational, health and other facilities." An official plan itself as a document must have "regard to relevant social, economic and environmental matters." Clearly, the legislation intends the provision of education to be part of the planning process.

However, the only direct reference to school boards in the existing Planning Act occurs in section 51, which provides:

"In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality,

"(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

"(b) whether the proposed subdivision is premature or in the public interest;...

"(j) the adequacy of school sites."

The cases in section 51 have tended to adopt the view that once school sites are designated in plans of subdivision, development can proceed, whether or not the land is owned by the school board and whether or not the board has the ability to build school facilities on the site. The point was well expressed by the Commission on Planning and Development Reform in Ontario in its final report:

"In the past, policies assumed that if a site in a subdivision had been designated for a school, the school would be built. Plans of subdivision were approved on that basis. Such an assumption is no longer valid. The commission proposes that municipalities be required to develop policies in the municipal plan addressing the provision of educational facilities, rather than just sites. This requirement should be set out in both policy and legislation."

The flaw in the current approach to land use planning is that it concentrates on the provision of hard services such as water, storm and sanitary sewers, roads etc. When hard services are available, development usually proceeds. The provision of soft or human services such as health facilities and educational facilities are not usually considered to have the same weight.

The position of the Ontario Separate School Trustees' Association is that land development is premature where social infrastructure, the soft services, are not available. Where school facilities do not exist to educate students who will reside in the proposed developments, those developments are premature.

Ms Carol Devine: This document summarizes the proposed changes to the various acts and provincial policies. Plans of subdivision will take an average of six months from submission to approval, instead of eighteen months. The decision regarding plans of subdivision can also be made simultaneously with the decisions regarding official plan amendments. This streamlining of the process will create more pressure on school boards and other local public bodies to respond and provide the necessary service.

Local municipalities must take into account the concerns of school boards in approving official plans and their amendments, plans of subdivision and zoning by-laws. The interests of school boards can be safeguarded through clear and concise provincial policies and changes to Bill 163.

The existing act and Bill 163 give the approving authorities the power to consult with the public bodies it feels may have an interest in the application. School boards are an integral part of the planning process. Since local school boards are required by law to provide education to students generated from new development or redevelopment, it is logical that any planning issues or proposals affecting residents or future residents of an area require their input.

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Municipalities circulate official plans and their amendments, zoning bylaws and plans of subdivision to their internal departments, for example, traffic, roads, building, engineering, parks and recreation. It should also be mandatory that school boards be consulted on all planning matters. It is through this process that school boards will have input into the process.

Therefore, OSSTA recommends that the following amendments to sections of the Planning Act, as set out in Bill 163, be revised to require that school boards be consulted on all planning issues: subsections 17(14) and (20), 34(15), 45(8), 45.1(3), 51(14) and (16).

When blocks of land are developed or redeveloped, school boards are not necessarily asked for comments. Traditionally, school boards have never been consulted regarding a development under site plan control. However, certain design changes to the layout of the complex could assist school boards in providing better and safer service to the children of ratepayers.

For example, a town house development situated on an arterial road or highway, absent of sidewalks, has an interior road pattern which prevents large school buses from entering the development. Pupils have to wait on the road allowance in order to be transported to and from school. This is an unsafe condition. The stopping of a school bus also serves to slow down the traffic, and depending on the number of stops on the highway, congestion could result. A solution is to provide an interior road pattern to allow for school buses. Lay-bys off the highway could also help. The only avenue to address the situation would be at the site plan stage.

Therefore, OSSTA recommends that school boards be consulted when residential developments under site plan control generate pupils.

When reviewing plans of subdivision, the approving authority should take into account the adequacy of school sites and facilities. As interpreted by some authorities, the current Planning Act provides that where land is designated for a school site, the requirements of the act have been met, plans of subdivision within the area are approved and development proceeds. What must be considered, however, is whether the school board owns the land or whether a neighbourhood school will be constructed and operational when the area is completely developed.

School boards have argued that the availability of school sites and facilities should be taken into account when reviewing plans. The approving authority has the power to stage developments so that growth is orderly and controlled. However, local municipalities do not consider the availability of school facilities when developing their staging plans since they are of the opinion that they have no real legislative obligation to do so.

The focal point of urban neighbourhood plans is the elementary school and parkland. The act has made provision for parkland to be dedicated or cash-in-lieu payments to be made by the applicant as a condition of subdivision approval. Development cannot proceed until that condition has been met. School boards do not have such power, but in lieu of this authority, the adequacy of facilities as well as sites should be a part of the condition when reviewing a plan of subdivision.

When the existing school facilities are inadequate or do not exist, a review of the plan of subdivision must take into account the ability of the local school board to provide the necessary educational service.

Where former commercial or industrial areas are redeveloped for residential use, existing schools which service the area could experience overcrowding. Although the site is adequate, the facilities require upgrading and expansion in order to accommodate the growth from the redevelopment.

OSSTA recommends that clause 51(17)(j) of the Planning Act be further amended to add the words "and facilities" after the phrase "the adequacy of school sites."

Mr Patrick Daly: Although land is designated for school purposes at the secondary plan stage, the Ministry of Education and Training will only fund site purchases after a significant portion of the neighbourhood is developed. The price paid by school boards has ranged from market value to highest and best use. It is not in the public interest for a developer to use the planning process to upzone a required school site and create value which must be then purchased by a school board at the newly inflated price. If a formula for the purchase of school land was part of the act, then the purchase of property would be made easier for all parties. The province, which funds a majority of the purchases, would reduce its cost by paying a more equitable price for the land.

As discussed in the previous section, the Planning Act requires that in approving plans of subdivision, land be set aside for parks. The municipality has the option of obtaining land or cash in lieu of land. If the municipality requests cash in lieu, then the value of the land is determined by the act.

The section of the act or bill states the following:

"For the purpose of determining the amount of any payment required under subsection (3), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision."

In the mid-1970s, a provincial committee known as the Planning Act Review Committee recommended the following change to the Planning Act:

"Where the municipality or local board acquires land zoned for a public purpose, notwithstanding the provisions of any other act, it is entitled to acquire the land at its value determined as of the day before the day of the draft approval of the plan of subdivision or as of the day before the day of the passing of the bylaw, as the case may be."

The wording is very similar to the valuation of land for park purposes. Sites for schools are as important to the planning and development of a neighbourhood as parkland. Therefore, OSSTA recommends that where a school board acquires the land zoned for school use notwithstanding the provisions of any other act, it is entitled to acquire the land at its value determined as of the day before the day of the draft approval of the plan of subdivision or as of the day before the day of the passing of the bylaw, as the case may be.

The 5% dedication of land for parks or cash in lieu is based upon the total area of the plan of subdivision. It does not take into account the possibility that a portion of the land could be designated for school purposes. The act is unclear as to whether or not lands designated for public use should be included in the calculations for the 5% dedication or the cash.

Clarification is required so that applicants, public bodies and municipalities are aware of how the calculations are done.

Ontario Planning and Development Act: The same concerns about consultation by school boards apply to this act as well as the Planning Act. Although Bill 163 does not propose an amendment to subsection 51(2) of the existing Planning Act, OSSTA believes an amendment is required.

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Subsection 51(2) outlines the requirements of an applicant in submitting a plan of subdivision. The number of lots and their use is information that is requested. The same requirements should apply to blocks of land. Current practice is to state that the block would be developed at a later date or it is reserved for medium-density development. No information is provided regarding anticipated units. In order for a school board to properly evaluate the need for school accommodation, all information regarding number and types of lots, as well as the intended use and density or unit count of the blocks of land contained in the plan of subdivision, is required.

Therefore, OSSTA recommends that subsection 51(2) of the Planning Act be revised to include a description of the use and density or unit count of land designated as development blocks.

Mrs Mary Hendriks: We offer the following com-

ments on schedule B, the Local Government Disclosure of Interest Act, 1994: Many of our member boards participated in meetings to discuss the July 1991 report of the Municipal Conflict of Interest Consultation Committee, which had been appointed by the Minister of Municipal Affairs, the Honourable David Cooke.

The minister then issued a document entitled Open Local Government, in response to the Municipal Conflict of Interest Consultation Committee report. The four school trustee board associations jointly developed a response to the document. A number of our member boards also responded.

In August 1992, the then Minister of Education, Tony Silipo, invited OSSTA to join the provincial-municipal working group to review the draft legislation. The Ontario Separate School Trustees' Association participated with representatives of the three other trustee board associations, the Association of Municipalities of Ontario and the Ontario Municipal Electric Association. This consultation process afforded the education community the opportunity to thoroughly discuss the proposed legislation. Our considered opinion is as follows:

We support the title of the act; section 1, the purpose; subsection 2(3), the definition of "pecuniary interest"; section 4, the disclosure requirements; and section 5, the restriction on the acceptance of gifts. We object strongly to section 6 in so far as the disclosure statement is to be filed with the secretary of the school board.

We request that these statements be filed with a central registry and handled in a manner similar to the procedures for members of the provincial Legislature under the provincial Members' Conflict of Interest Act.

We support the intent of the draft legislation, but we believe that the registry of disclosure at the local board office could be abused and could constitute an invasion of personal privacy.

We also draw your attention to the fact that a number of small school boards may not have the administrative staff necessary to provide an accessible registry. We reluctantly support the disclosure-of-interest statement. We do support the need to maintain records of declarations of interest. However, we support a process similar to that for provincial members rather than the process outlined in Bill 163.

It is our understanding that members of the provincial Legislature file detailed statements of disclosure with the provincial commission. These more detailed disclosures are kept in a central registry. More generalized reports, deleting specifics, are filed with the Clerk of the Legislative Assembly. The public has access only to the general reports. Individuals who wish to review these documents must file a request with the Clerk's office. OSSTA has stated its support of a similar process for locally elected officials, with one central registry of disclosures and a general statement of disclosure available to the public upon request.

Regarding section 7, the bill establishes a new commission which will provide guidelines for administration, set fees, investigate citizen complaints and, after an investigation, determine whether to drop or proceed on an appli-

cation or refer a matter to the courts. The trustee board associations recommended that rather than create another commission and bureaucracy, the provincial Commission on Conflict of Interest be expanded to include local government.

This is the preferred course of action and is consistent with the above recommendation that the registry of disclosures be a central agency.

The bill does not provide information on the operation or financing of the proposed commission. OSSTA urges consultation with the school trustee associations on the development of regulations to implement the Local Government Disclosure of Interest Act.

Therefore, OSSTA recommends that section 6 of the bill be revised to provide for essential registry of local government disclosure of interest at a central agency and a process of public access similar to that of members of provincial Parliament.

OSSTA recommends that section 7 of the bill be amended to delete reference to the establishment of a new local government disclosure commissioner and that the function be added to the mandate of the existing provincial Commission on Conflict of Interest. OSSTA recommends that the province consult with school boards and trustees on the regulations for implementing the Local Government Disclosure of Interest Act.

Mr Meany: In conclusion—that is, in conclusion with the respect to the brief as a whole—it is the responsibility of our member school boards to deliver education to the communities we serve as required by the Education Act. We have a vital and continuing interest in the issues related to planning and development reform in Ontario, since land use planning will determine the need for, the timing of and the location of educational facilities. The Ontario Separate School Trustees' Association appreciates the opportunity to address the committee and to express the views of the 53 Roman Catholic separate school boards in Ontario.

I believe you have a summary of our recommendations and I thank you for allowing us to address you.

The Chair: There are a few moments left, approximately five, so two minutes per caucus.

Mr Curling: Thanks for your presentation. I think you made some excellent comments and recommendations here, especially in regard to conflict of interest.

To start off with—I know that the parliamentary assistant and the Chair have heard me say this over and over—here is a large omnibus bill that you have so many fantastic ideas on which I'd like to pursue with you more. We're allowed two minutes in which to do this, which is unfortunate, very undemocratic in a process of open government.

Mr Wiseman: They never did it.

Mr Hayes: Use your time for a question.

Mr Eddy: No, but it isn't adequate.

Mr Curling: I'd like you to comment, very much so, on the policies that have been brought in by the government about intensification and the impact, really, that this has made. While there is an official plan in place in some

areas, here, over and above it all, a policy came in about intensification that we have heard horror stories about, students in portables—

Mr Perruzza: Where? In Napanee or at Bay and Bloor, Alvin?

Interjections.

Mr Curling: The fact is, listening is always a problem over there.

The Chair: Order, please.

Mr Curling: The fact is that many, many students are seeing their school life in portables, and policies are now being put in place for intensification, bringing more people into the community. What impact would something like that have on a school board?

Mr Meany: I would have to speak at more length in order to give a complete view of this because, as you know well, there are very many aspects to it. But from our point of view, we would not, in itself, object to giving more people a place to live. It's that we should be given the opportunity to provide them with the schooling, and this is what we are not given.

Mr Eddy: Planned for schools.

Mr Curling: Yes, and I know you do want to elaborate much more, and as I said, we are being restricted by just the two minutes. How many pupils in portables do you have now?

Mr Meany: Over the whole province, I'm not sure. I know that in our own we have some 15,000 in one school board.

Mr Grandmaître: In one school board?

Mr Meany: Yes, one school board. It's 40%. Now, some of those are in what we call movable buildings. They're still kind of—

Interjection: Portapacs.

Mr Meany: Portapacs. Larger—

Interjections.

Mr Perruzza: Why don't you follow that up with a question on how many schools are half-empty or being used for purposes other than education?

The Chair: Mr Perruzza.

Mr Curling: Why don't you give the gentleman an opportunity to respond?

The Chair: I'm sorry. Please complete your answer.

Mr Meany: —relocatable buildings, some of those. But in general about 40%, and I think that holds largely for the growth areas and extends into both school systems.

Mr McLean: I want to welcome you to the committee. You raise the issue here with regard to school sites, which has bothered me for a long time. I agree totally with you that when the planning process is in place and subdivisions are being created, there should be input there and there should be sites set aside for schools, and I don't think that there should be a cost to those. I think that should be part of that overall development because they're putting a burden on that whole area, and for you to have to come in and pay an upzone price just doesn't seem right to me.

I agree with what you're saying and I agree with the subsection 51(2) where you want to revise it to have a description of the unit or the count of land designated. I'm not sure just how you would do it, but there's got to be a way that—and how you would up pick a site. I guess in an overall plan of a municipality, and when it's designated with certain plans, they should have—it's been a proven fact of how many families there are in a subdivision and how many children are going to be going to school. It shouldn't be hard to determine where you should put a school site, and that should be part of the overall plan. I think it was Dufferin-Peel that was here earlier on and had made that same statement.

Mr Meany: It would be true across—

Mr McLean: Right across the province.

Mr Meany: Right across the province.

Mr McLean: And it should be. I thank you for coming and expressing that because I think the more that we hear about it, some day it will happen.

Mr Perruzza: I'm particularly interested in what Mr McLean was talking about, in having to acquire lands at the expanded zoning price, and I'd be very interested in pursuing that issue with the ministry and with staff and see if we can't find a way to deal with that particular issue.

But I agree with you. A lot of municipalities, and I remember when I was on North York council—you forward a plan that's before the council to the school board for comment when a site is being intensified or expanded and school boards, their pat answer, by and large, is, "Well, our schools are at capacity in that area, so no, we can't accommodate any more," and the council says, "Well, okay," and the applications generally proceed without much ado.

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But in following up on what Mr Curling was saying about how many students are in portables, the question that we also should ask in conjunction with that is: How many good school buildings are half-empty and how many of them, throughout Ontario, are being used for purposes other than education? I think that that particular issue is far more complex than in the simple way that Mr Curling wanted to paint that particular picture.

My question to staff: Is there a way that we could look at that land dedication for school purposes when plans are being developed in communities, when redevelopment or development plans are being considered, and is there a way that we could prevent school boards from having to pay the upzone price for acquiring land for school purposes? Because, at the end of day, it's the same person who is paying here.

Mr McKinstry: I can't give a really complete answer, but just for the information of the committee, the way the parkland dedication works right now, because developers are required to dedicate parkland, the criteria for the price that the municipality is required to pay are specified in the act.

In this case, the school boards are required to be set aside, but there is no requirement for the developer to dedicate them. So we'd have to look a little bit and talk

to our legal folks about if there was a mechanism that we could govern the price. We'd have to think about it a bit.

Mr Perruzza: Can you get back to us on that?

Mr McKinstry: Sure.

The Chair: Thank you very much. We'd like to thank the Ontario Separate School Trustees' Association for their brief and for sharing that information with this committee.

Mr Meany: Thank you, Mr Chairman. The bottom line, because of the shortage of time, is that we have said several times in this room that we regard education as quite as important as or more so than sidewalks and other valuable things like parks.

The Chair: We appreciate that; thank you.

LAKE DALRYMPLE ASSOCIATIONS
FOR ENVIRONMENTAL PROTECTION

The Chair: We invite the Lake Dalrymple associations for safe environment. Welcome to this committee.

Mr Lorne Hill: My name is Lorne Hill. I'm the co-chair of the steering committee from Lake Dalrymple Associations for Environmental Protection. Mrs Mary-Jean Smith is the secretary of our association, Mr Rodney Northey is our counsel. We thank you very much for allowing us to appear before committee today.

Our report has two sections. We are going to concentrate, in the time allowed, on our major concern. You will find our further recommendations appended to the report.

Some background first: Lake Dalrymple associations is speaking to you about serious environmental concerns with Bill 163 to amend the Planning Act. Lake Dalrymple associations is a coalition of over 500 residents, farmers, cottagers and environmentalists formed in 1990 to protect the local environment around Lake Dalrymple.

(1) Lake Dalrymple is a very shallow lake. It's only five feet deep and it's over 1,300 hectares in size, north-east of Lake Simcoe. The lake is the best warm-water lake for fishing and hunting of the 1,300 lakes in the Minden district and it supports a provincially recognized population of tiger muskies. The lake is used to stock other lakes in the area. It is the southern headwater of a lake and river system that flows to the Severn River and Georgian Bay. Lake Dalrymple is bordered along the whole southwestern corner by a provincial class 1 wetland of over 2,200 hectares, in the middle of which is a knoll of limestone.

(2) Lake Dalrymple associations believes that parts of Bill 163 provide lesser protection for provincially significant wetlands. Since the middle of 1992, proposed developments have been subject to the wetlands policy statement. The wetlands policy provides a number of very important measures to protect provincially significant wetlands, classes 1 to 3, in southern Ontario. Our understanding is that the wetlands policy applies to any decision made under the Planning Act after the policy came into effect in 1992.

We believe this view is supported in the Manual of Implementation Guidelines for the Wetlands Policy Statement issued by the ministries of Municipal Affairs and Natural Resources in November 1992. These guidelines state that, "As of this date, every planning approval

agency, provincial or municipal, shall have regard to the policy statement in making any decision dealing with a land use planning matter."

We believe the wetlands policy now applies to official plans, official plan amendments, subdivisions and consents on zoning and other matters. However, we think the May 1994 Comprehensive Set of Policy Statements issued with Bill 163 says something very different. They change the relevant date for considering the application of provincial policies such as the wetlands policy. Policy G, "Interpretation and Implementation," seems to say that where an application has been made to an approval authority such as a municipality before the effective date of the policy statements, "it must reflect the policy environment in place at the time of application."

We believe Bill 163 follows the same approach on the application of provincial policy statements. Bill 163 provides a number of rules to decide when an application is considered to have commenced. Section 74.1 on page 62 appears to make the important date to be the date of the original application by the applicant or, in some circumstances, the date of a municipal council decision on the application.

If we are correct, any application made prior to June 1992 or accepted by council before 1992 does not have to consider the wetlands policy. The policy will no longer apply. An application made in November 1990, and a wetlands policy approved in June 1992, will not have that policy applied to it.

In our case, this change would affect a proposal to build one of the largest quarries in this province, 550 acres, 80 feet deep, to extract 3 million tonnes of rock each year for 60 years. This quarry may be able to blast rock, excavate and completely remove an island of limestone in the middle of the provincially significant class 1 wetland without considering the wetlands policy, all because the applications needed for the quarry under the Planning Act were filed, and in this case rejected by the local municipal council, before the wetlands policy came into its present force.

We have been in touch with the federal Department of Fisheries and Oceans, and it is working in conjunction with the Ontario Ministry of Natural Resources to examine the fisheries in the lake. They produced a report in August 1992.

According to the quarry company's own reports, it's quite possible that the water level in the wetlands and the lake will drop eight inches. You will see that there is a map attached to the back of your package. There's a little lake in the middle of the provincially significant wetlands called Kelly Lake. An eight-inch drop will cause that lake to dry up 50%. The Ministry of Natural Resources is afraid that the drop is actually going to be one metre, in which case Kelly Lake will dry up, the wetlands will dry up and Lake Dalrymple, which is five feet deep, will become a puddle.

In addition, we've had four consultants examine the quarry company's proposal and they have told us that the potential exists for an environmental catastrophe.

We do not know how many other development propo-

sals in or near provincially significant wetlands were made prior to June 1992, but if Bill 163 is not changed, those other proposals would also appear to be able to ignore the wetlands policy. I don't have to remind the committee that we have already lost 75% of the wetlands in southern Ontario. So for us, from that point of view, Bill 163 is a disaster.

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We do not understand how this approach is consistent with the provincial interest identified in the wetlands policy. We thought this government spent a great deal of time in coming to a cabinet decision to apply the wetlands policy with increased protection to class 1 to 3 wetlands as of June 1992. Why, then, should this protection now be withdrawn?

(3) There appears to be inconsistency in the wording of the bill and the policy statements on the application of presently existing policies. Page 18 of the policy statements does not seem to be consistent with Bill 163. When we read section 74.1 of Bill 163, we find that clause (2)(a) means that an official plan or official plan amendment is considered to be commenced the date it was adopted by the municipality, yet the policy statements say that the applicable date is the date of application. The policy statements appear to be correct only if the official plan or official plan amendment is not adopted by a municipality, as stated in clause (2)(b). According to other parts of section 74.1, the same problem seems to exist for zoning bylaws or amendments.

We support much that is in the bill to streamline the planning process. We have some further recommendations for you to consider and we have appended them. Our major concern is with the difficulty in the applicability of the wetlands policy.

Thank you very much. We will try to answer questions if we can.

Mr McLean: Welcome to the committee. I already expressed the concern that you raised earlier on when I was asking some questions to the people from the Green Door Alliance Inc who were here and indicated that there's enough aggregate in southern Ontario to last for 100 years. I thought there probably wasn't any need to be looking at any further extraction north of Highway 7.

I certainly understand where you're coming from and sympathize with the problem that you're having, but I want to find out with regard to the question of the policy statement. I'm not putting my finger on it here, but if they did have our approval and if the council was against it, would that not kill it? I guess my question is more to the ministry staff than anything. They said that if the council was in agreement with it, it could proceed, prior to 1992. But this council was opposed to it. Does that in effect kill it or does it now come under the new guidelines of the wetlands?

Mr McKinstry: It depends what the application was. If it was for a private official plan amendment, then the applicant would have the right under the current act to go on to the board. If it was for a subdivision, then the application would be made directly to the approval authority and the municipality would be commenting.

Mr McLean: It was a zoning change for the land. That's what it was.

Mr McKinstry: If it was a zoning change, then the applicant would have the right to go on to the Ontario Municipal Board and the ministry would not be involved.

Mr McLean: Then this policy wouldn't take effect?

Mr McKinstry: The zoning would not take effect until the board had made an order, if it went to the board.

Mr McLean: Do you have an answer to that or a question to him?

Mr Hill: No.

Mr McLean: Well, they're not so sure.

Mr McKinstry: I don't know what the details are.

Mr McLean: There's been an application made for a rezoning of a parcel of land for aggregate and the municipality has not approved it. They have said no. The people involved, the principals, want to proceed and they're saying that they can proceed. Is that right?

Mr Hill: It's both a rezoning and an official plan amendment.

The Chair: It's both, which happens.

Mr McLean: That's right. So they can now go to the OMB and ask for that to be heard?

Mr McKinstry: If the applicant wants, right now, if they have submitted a private application and the municipality does not act on it within 30 days, it can go to the board, or if they refuse it, it can go to the board.

Mr McLean: The municipality doesn't have much control then, really. Individuals can come along and make an application to have a rezoning, and if the council doesn't approve it, they can continue on and go to the OMB, over the council's head.

Mr McKinstry: That's the existing act. Are we talking here about the existing act?

Mr McLean: Yes, that's what they're working under.

Mr McKinstry: Yes, and that's the system in Ontario, that people have the right to go to the Ontario Municipal Board when they've been turned down.

Mr Murdoch: But under what policy? It's in a wetland. I think that's the concern. It's in a wetland and this policy won't kick in because it was done before June 1992, so what policy will their application be under then? I think that's the question.

Mr McLean: Yes.

Mr McKinstry: The issue was the existing policy environment. The wetlands policy statement came into effect in 1992, so all applications made after that date have to have regard to the existing wetlands policy statement.

Mr Murdoch: That's right.

Mr McKinstry: The wetlands policy statement was in development for a long time before that, so there has been information available for a long time. However, it had no legislative backup in the Planning Act until it came into force.

Mr Murdoch: So they applied before June 1992, so what their policy will—

Mr McKinstry: Therefore, the wetlands policy statement which is currently in effect would not be applicable to that site.

Mr Rodney Northey: If I might just interject, the situation is that if that OMB appeal were held today, the OMB could apply the wetlands policy statement to that decision because it is coming and having to make a decision after the date in 1992. The problem is that if the hearing is following the implementation of this act, the statement set out in this act would appear to suggest that because the policy was not in effect at the time of application, there is no application of that policy.

Mr McKinstry: Maybe I should clarify that. What we were trying to say there was that the existing policy environment should be taken into account. So, for applications made before the date that this policy comes into effect, the existing policy environment, which is the current wetlands policy statement, the mineral aggregates policy statement, the housing policy statement and the floodplains policy statement, the decision-making must have regard to those. Then, once the new policy statements come into effect, decision-makers will be required to be consistent with the new set. As it happens, wetlands is the same in the new set as it is in the old set.

Mr Northey: If I could interject again, policy G appears to suggest that the policy environment is the time of application. According to what you've suggested, the applicable time would be the time immediately prior to the effective date of these new policy statements.

Mr McKinstry: It's when the application is made, the policy that's in effect on that date.

Mr Northey: Yes, and that would mean here that the wetlands policy would not apply.

Mr McKinstry: Because it was made before that date in 1992.

Mr Northey: Right.

Mr McKinstry: Yes, you're right.

Mr Northey: Whereas it now does apply.

Mr McKinstry: Whereas for any applications made now, the wetlands policy statement applies.

Mr Northey: And any board decisions that were to be held today could apply or would apply the wetlands policy statement, whereas if it's in the future they may not.

Mr McKinstry: I guess that's what is not clear to me: the rationale why it wouldn't in the future. I don't understand that. It doesn't seem correct to me. In the future you would either have to apply the old wetlands policy statement, if the application was made before the new policy statements came into effect, or if the application was made after the new policy statements come into effect, then you'd have to be consistent with the new policy statements. I'm not clear. Maybe we could talk about this afterwards.

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Mr Wiseman: I'm concerned about that as well. If what I'm hearing is correct, it's that in Bill 163 it changes the date; it changes the wording to say that instead of the wetlands policy applying from June 1992

onward, it now only applies on the date of the application. I think, if I've got it right, your argument is that under the current wetlands policy from June 1992 onward, somehow or other this whole Lake Dalrymple quarry thing would be that the OMB would have to have regard for the wetlands policy as of June 1992, but by changing the wording in Bill 163 it moves it back to the application date. If that's the case, that's a significant difference. I don't have a copy of the wetlands policy, but that's the significant difference, I think, that you're trying to get to. If that's the case, I really think we are going to have to take a look at that section.

Mr McKinstry: Yes, maybe I can talk to you afterwards and clarify the problem and then maybe we can talk about whether we need to fix the problem, because I'm not sure I quite understand.

Mr Wiseman: I guess the other question is that since Lake Dalrymple is a fish hatching area, wouldn't the federal Fisheries Act be a stronger piece of legislation to work on your behalf than this, or have you looked at that?

Mr Northey: I have examined that question and at this point, without getting into federal-provincial relations, the federal approach to fisheries and environmental assessment is extremely complicated and there have been all kinds of court cases, but at this exact moment it would not appear that the federal government could be required to make a decision under that act.

Ms Haeck: I'm just pursuing that, because I thought that basically MNR, the provincial ministry, does a lot of the enforcement under the Fisheries Act, and obviously that's the ministry that's also responsible for aggregates, so that gets to be an interesting quagmire which we probably shouldn't be pursuing because we could be here till midnight, for sure.

Mr Wiseman: How about a year?

Ms Haeck: But within that ministry, have they given you any sense of where the responsibility lies with regard to especially the fisheries question? Mr Wiseman and I have dealt with similar questions in our respective areas and there were some disappointments for both of us.

Mr Grandmaître: Change the government.

Ms Haeck: It didn't help with you guys either, so forget that.

Mr Wiseman: You're the problem, not the solution.

Mr Hill: We've had some difficulties in getting information from the Ministry of Natural Resources. On page 7, you'll see that we have sent four unanswered requests to the Minister of Environment and Energy asking for environmental assessment of the quarry site, and finally we got a hearing. We've received no response to another letter we've sent. We were refused a meeting with the Ministry of Natural Resources until we appealed to the minister and the Premier, and the Premier has been supportive. The MNR has given our material to the developer but gave none of the developer's material to us, and so on. So there's a major communication problem there, we have found. We would like that to be solved somehow, if possible.

Ms Haeck: I have just a quick summation. I'm obser-

ving that your comment reflects a number of other comments that have been made before us in relation to the communication between ministries and, shall we say, the lack of timeliness on the part of commenting agencies to deal with requests, and it's on all sides; it's not just on one. Obviously, that's an issue you'd like to see addressed as well.

Mr Hill: Yes, very much so. We understand that it's not just our side that's involved in this. We've talked to the ministry and they're understaffed and so on. We're aware of that.

Mr Eddy: Thank you for your presentation. This is seemingly a very complicated matter but your concerns are very genuine. I can understand them. On page 6 you talk about provincial priorities, "If local municipalities are to 'have regard for' or to 'be consistent with' provincial policies," and the new wording in this act is "be consistent with." But the ministries, and I guess it's just the one, Municipal Affairs, "have regard to"; there seems to be a big difference and many people have commented on it.

The other problem I have: You're asking which policy takes precedence, the wetlands policy or the mineral and aggregate resources policy? We need those questions answered, we really do. It's come up before that there are conflicts between some of the policies and who is going to be the arbitrator. I guess the question I have, are you very fearful of this application going on to the OMB and being heard by the OMB when the OMB is not required to follow any of the rules?

Mr Hill: Did you say is that a problem for us?

Mr Eddy: Yes.

Mr Hill: Very much so.

Mr Eddy: The point I'm making about the OMB, the OMB has made decisions that are absolutely in total conflict with a municipality's approved official plan, with its approved zoning and, I would expect, provincial policies. The OMB can and does make some decisions which I've never been able to understand, and that would be the ultimate decision. When the OMB decides, that's it.

Mr Wiseman: It could go to cabinet.

Mr Hill: It can go to cabinet, as I understand, but—

Mr Eddy: This could go to cabinet?

Mr Hill: As I understand, it can.

Mr Eddy: Oh, this would—

Mr Grandmaître: Not any more.

Mr Eddy: I didn't think so. That was eliminated, I thought. But that is a real concern you have, that we have these policies, now there's some question about the date of the application being submitted, which needs clarification. But that's your concern?

Mr Hill: Yes.

Mrs Mary-Jean Smith: There's also the cost that's involved in—

Mr Eddy: Oh, terrible cost.

Mrs Smith: —the OMB hearings, but also the EAAC hearings that are going on across the province because there are so many questions involved with the policies that are in place now.

Mr Eddy: That's another point that's been made, that the environmental assessment requirements should be integrated with the planning process that's in the Municipal Act.

Mrs Smith: Yes, that's right. There's been a lot of recommendations brought forth from the EAAC hearings that I think should be incorporated in this new planning policy to avoid all this expense of these OMB hearings and these EAAC hearings.

Mr Grandmaître: Duplication.

Mrs Smith: Yes.

Mr Eddy: Thank you for your presentation.

The Chair: We thank the association for coming and for communicating your concerns to us.

Mr Hill: Thank you, Mr Chair.

CHRISTIAN FARMERS FEDERATION
OF ONTARIO

The Chair: We invite the Christian Farmers Federation of Ontario. Welcome.

Mr Elbert van Donkersgoed: My name is Elbert van Donkersgoed. I'm staff with the Christian Farmers Federation of Ontario and John Markus, our president, is here as well. I have taken the responsibility of taking you through what we've prepared. Our focus is on the planning reform part of your bill. There's a lot more in your bill that we're not paying a lot of attention to because the planning area is the thing that's most important to us as family farm entrepreneurs across the province and what happens to our agricultural land base.

Christian Farmers Federation is an organization of general farm organizations. It's an organization of family farmers; a little over 3,000 family farmers across the province support us. If you're looking for more information about us, we've attached two appendices: One is a backgrounder, general information about the organization and an appendix on a policy statement that we adopted two years ago. The Ministry of Agriculture, Food and Rural Affairs did a review of the agricultural lands policies and we made a major submission to that and we've attached that for your information. I've got about five pages that I'd quickly like to read to you as some general comments from our organization.

First of all, some general comments: We are supportive and encouraged by the proposed new framework for doing planning and the renewed commitment to effective provincial policy statements under the Planning Act. We are hopeful they will prove helpful for family farm entrepreneurs in rural communities. We can honestly say that throughout the process of developing the proposed changes, including the work of the Sewell commission, we were given good opportunities to contribute our input.

There are some disappointments for us in this package of reforms, specifically in the content of the policy statements, but we do not doubt that the overall package has a chance to be an improvement on the past.

Specific reforms that have our support: Adoption by the province of a comprehensive set of clearly written policy statements on matters of provincial interest, such as natural heritage—and we've put a whole list of them in there.

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Secondly, establishing a stronger mechanism for implementing provincial policies by requiring that the local planning authorities in their decisions "shall be consistent with" provincial policies rather than the present "shall have regard to."

Using conflict resolution methods before and during the resolution of differences through the Ontario Municipal Board process—this has already started to happen and we have had some good experiences with it.

The commitment to create time frames for making decisions and the commitment to guarantee better notification of proposals for changes in official plans and zoning bylaws by regulations under the act—we look forward to some greater consistency across the province.

Reforms that have our support—with concern: delegating more planning authority to upper-tier municipal governments once their official plans are consistent with provincial policy statements. It has a lot of appeal to us. There are some, however, upper-tier municipal governments who have never been able to develop a strong enough consensus among their member municipalities to create an official plan. The new approach is no guarantee that these upper-tier municipalities will now be able to do so.

Secondly, requiring applications for developments adjacent to significant ecological features to be accompanied by environmental impact statements—in our original submissions to the Sewell commission, we endorsed this concept, but serious reservations have developed within our federation. These reservations are: (a) We need assurances that only provincially significant features will require this kind of paperwork. (b) The whole atmosphere around environmental stewardship is changing. We are experiencing moving zeros in standards. Many voices bring attitudes of zero tolerance to changes in the environment. Still others support these reports as a way to delay, stall or otherwise sideline development activities. (c) Impact statements are the wrong concept. Documents that are worth doing—read paperwork—highlight action plans that will steward the significant ecological feature. We want to spend our time and money on the real work of stewardship, not reports.

Additional reforms that we urge you to add or clarify: Requiring that information about land use changes must be in plain and clear language. We think it should be in the law, not in the regulations.

Starting an intervenor-funding process for Ontario Municipal Board hearings where there are provincial interests at stake—emphasis on provincial interest, not just anyone's interest. Please note the emphasis on the provincial interest.

Specifying a time period in which municipalities are to rewrite or demonstrate that their official plans are consistent with the new provincial policy statements—our concern is that it could be a long time before some municipalities get around to it, including the upper-tier ones.

Adding language that makes it clear that provincial policy statements are as binding on government agencies and ministries as private land owners or anyone else—

we're a little cautious about your wording around what the responsibilities of government agencies are.

Two observations: Under the existing planning system, only four upper-tier municipalities have developed an effective approach to planning for agriculture. In the vast majority of municipalities, prime agricultural land has had the status of a holding zone—waiting for someone to come along and propose to do something else with it. This was the result of the 1978 Food Land Guidelines which amounted to the province saying, "This is how you can protect agricultural land, if you want to." We are hopeful that the new approach will result in a different message coming from the province: "Prime agricultural areas will be protected for agriculture."

Secondly, the success of the new approach will depend in a very big way on the workableness of the comprehensive set of policy statements and how lower-tier planning documents are made consistent with them. Our support for the overall planning framework is, for a great part, based on the fact that we are encouraged by the new agricultural land policies and related policies. If we could not be supportive of them, it would be very difficult to be supportive of the whole process. In our view, an improved process without improvements in provincial policies would not accomplish much.

I think it's important for us to comment on the agricultural land policy and to let you know how we feel about it, the one that cabinet is approving. We endorse the general direction of the agricultural land policies. It is a significant improvement on the existing Food Land Guidelines.

Specifically we endorse: Protecting all prime agricultural areas for agricultural use; including prime agricultural areas in the extension of builtup areas only if there is no other alternative; avoiding the inclusion of specialty crop land in the extension of builtup areas in all cases; not permitting non-agricultural uses, including public service facilities within prime agricultural areas; encouraging the location of non-agricultural uses in existing communities to support community economic development; permitting infrastructure within prime agricultural areas only if it has been approved through an environmental assessment process; generally discouraging the creation of lots in prime agricultural areas; restricting the right of farmers to sever a lot for retirement, for family members or for farm help; requiring new non-farm development and new or expanding livestock facilities to comply with the minimum distance separation formula; defining many of the words and phrases associated with agriculture and the rural environment.

There are some weaknesses in the policies: The creation of lots in prime agricultural areas should be discouraged even more. We do not support severances for residences surplus to farming operations as a result of farm consolidation. In quality agricultural areas, we advise against allowing these severances. Each severed house will cast an urban shadow around it. As the nature and makeup of our rural neighbours change in the years to come, this shadow will grow and increasingly restrict our use of quality agricultural land.

We do not support severances for infilling. A few

houses together create a dramatic urban shadow as the families living there immediately become the majority.

We do not support retirement severances under any circumstances. The long-term, negative impact of a residential lot on the business of farming far outweighs the short-term—three to five years—benefit of living on the corner of the farm. There is no justification for farmers having a special status among rural land owners.

Finally, we do not support scattered rural severances of any kind. There is not enough development activity across rural Ontario to support both scattered rural residential, industrial and commercial activities and have a healthy redevelopment of our towns and villages. Allowing development to scatter will guarantee a further decline in our towns and villages.

We want to comment on some of the definitions in the policy statement document because there are some weaknesses there. Prime agricultural land—the definition is excerpted from the statement. This definition is an improvement on the definitions used in the Food Land Guidelines, but we would like to go further. We propose that the definition only include Canada land inventory class 1 and 2 soils and specialty crop lands. CLI class 3 and less productive soils are significant for Ontario agriculture, but they may not need the same level of provincial protection as CLI class 1 and 2. More of their protection can be left to local planning authorities. However, in return for reducing the provincial interest in the medium quality lands, we want stronger protection for the best land—see our recommendations on no severances above. If the prime lands are not well protected, farm families will inevitably be pushed on to the less productive lands.

CFFO revised its position on this issue during 1992-93. In past statements we have sought full protection for class 3 and most of class 4 food land. We are now willing to consider a lower level of provincial protection, not necessarily lower municipal protection, on less productive soils if we can be guaranteed firmer protection for our best land. By easing up just a little on class 3 and 4 lands, there should be a better chance at firm support from many municipalities for protecting the best food land. If we get firm protection for the best, much of agriculture's long-term interests will be met.

The definition of prime agricultural area—in our earlier submissions to the Sewell commission, CFFO proposed the following: We recommend that quality agricultural areas be defined as part of a provincial policy statement as provincially significant food lands in farm-size parcels and comprised predominantly of Canada land inventory class 1 and 2 soils, provincially identified specialty crop lands or lands of comparable productive quality as determined by a food land stewardship board; locally significant food lands in farm-size parcels and comprised predominantly of CLI class 3 and 4 soils as identified by regions or counties using provincially developed criteria; and locally significant food lands in partial farm-size parcels when adjacent to provincially significant lands.

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The proposed definition goes a long way in this direction. An alternative land evaluation system approved

by the Ministry of Agriculture, Food and Rural Affairs is an acceptable starting point but, clearly, the long-term goal needs to be an independent body that develops credibility on the quality of land for agricultural purposes so that various teams of experts don't need to be hauled at great expense before land use tribunals to establish the quality of the lands in question. The present process usually leaves the hearing officers confused rather than with good insight into the value of the lands for agricultural purposes.

The definition for agricultural use—I won't read the quote itself. This definition will become problematic for what it does not include. It does not define "agriculture." The family farm is changing across rural Ontario. Marketing and adding value to the primary or raw products are now essential parts of the business of agriculture. The very nature and dynamic of farming now includes these activities. The concepts of secondary agricultural uses or agriculture-related uses no longer capture the reality of today's farm businesses. These phrases were written into planning documents when the first official plans and zoning bylaws were drawn up. They no longer reflect the actual circumstances of agriculture.

The list of definitions should include a modern understanding of agriculture, and we have a suggestion:

"'Agriculture' means the use of land, buildings and structures for the purpose of field crops, market gardening crops, orchards, vineyards, livestock, poultry production, nurseries, greenhouses, apiaries, mushrooms, aquaculture, horticulture, silviculture or other farming activities, including the growing, raising, packing, treating, processing, marketing, selling, sorting or storage of locally grown products, the storage, disposal or use of organic recyclable materials for farm purposes and any similar uses customarily carried on in the field of general agriculture."

There you have our concerns.

The Chair: Thank you very much. I'm very wary of allowing the members to ask questions because they get very long, but if you'd like to make a comment with respect to the submission, that would be all right.

Mr Eddy: Thank you for your direction. Thank you for your presentation. The preservation of prime agricultural land should be the aim of everyone in elected office, as well as the people who use it.

My concern is that the words "be consistent with" have been determined to give flexibility, and this is the explanation by the ministry people, "will give flexibility." I don't know really what that means and I need to be more assured, I think, about the protection of prime agricultural land. Do you feel that when applications are made for non-agricultural use of prime agricultural class 1 and 2 land that if it's in conflict with the agricultural policies, then the application should not proceed?

Mr van Donkersgoed: Under most circumstances, we would want to say the application would not proceed. We're aware that "consistent with" provides some flexibility, but we don't think it's as much as "have regard to."

Mr Eddy: No, it isn't. It isn't, but I don't know—

some people are fearful that it gives no flexibility. Others say it's as wide as a barn door. I'm not sure.

I appreciate your definition of agriculture uses. It's excellent. Thank you.

The Chair: We've run out of time. There is no time for other comments. I will simply thank you for the submission. We found it very informative.

EAST YORK TENANTS ASSOCIATION

The Chair: We invite East York Tenants Association. Welcome to this committee.

Ms Mary Jo Donovan: Thank you very much. I'm going to try and be very fast. You'll have time for questions and stuff, but if you don't ask me any, I'm going to use up the rest of the 15 minutes talking some more.

My name's Mary Jo Donovan. I'm the president of East York Tenants Association and we were concerned because, as usual, the things which will have the greatest impact on tenants have not been dealt with. The word "tenant" does not appear anywhere in any of the legislation I read in preparing this brief. The word "ratepayer" was mentioned several times but not "tenant." We would like to see the Planning Act and the Municipal Act amended to include under definitions "'ratepayer' means any property owner or tenant."

Also, there should have been some thought given to existing development and its preservation. The maintenance and repair of affordable housing is absolutely essential. I know Deborah's going to be dealing with that in her half of this time, so I'm not going to go into it further. But it brings me to the main point of our presentation, which is about property standards.

I'm here grasping at straws. We would like to amend section 31 of the Planning Act, but we'd have to amend Bill 163 first to have it include section 31 of the Planning Act, which is not presently in the bill, or else at least deal with it in the regulations. This would involve only minor amendments to the section by adding "as prescribed" in the appropriate places. Our proposal in this regard is on a separate sheet in the package we've provided.

We have also provided you with copies of our deputation to East York council and our proposed amendment to the East York property standards bylaw. These items are only intended as background material to help you better understand what problems we are dealing with. Because this whole thing begins with section 31 of the Planning Act, that's why we decided to start with that. You will note that our suggestions regarding possible regulations are very broad and they're only intended as a guide to the legal department so they'll know what we hope to accomplish.

Our primary focus is on subsections 31(11) and 31(15), which deal with the property standards committee. The members of this committee are appointed by council and have statutory powers of decision as defined in the Statutory Powers Procedure Act. The decisions made by this committee can have a real impact on tenants. This committee is classified as a tribunal and it is allowed the right to "adopt its own rules of procedure," with some conditions prescribed in the act. There are no regulations

currently attached to section 31 and we believe that those which we are proposing are justified.

East York is the most open, democratic and accessible council I have ever encountered. It is only the enforcement of the property standards bylaw which gives us concern, and I feel that if this can happen in East York, it's likely happening elsewhere.

The property standards committee is established to hear appeals from orders issued by the bylaw enforcement officer. This has the effect of making the officer the respondent in the appeal. I don't know if he technically is or not, but that is really the role he ends up playing. But the officer doesn't behave like an ordinary respondent. He meets with the committee prior to the start of the hearing and presents his evidence in private, in the course of which he makes recommendations to the committee with regard to its ultimate decision.

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The committee is there to hear evidence and pleadings in opposition to and in favour of the order. These things are meant to take place in a public forum. The appellant should have the right to speak first and provide whatever supporting testimony or documentary evidence he has, the respondent should then speak in support of his order and those who will be directly affected by the decision should then be permitted to speak. If the committee would like to have recommendations from the enforcement officer, those should be asked for publicly. Only the deliberations should be in private.

The way these hearings are being conducted is analogous to a police officer who is testifying in a court case meeting with the judge in chambers ahead of time, giving his testimony in private and trying to persuade the judge to go easy on the defendant.

There are certain democratic principles which are being overlooked in all this. We realize that some of our activity in resolving our concerns must be with the Ministry of the Attorney General, but the Planning Act and the Municipal Act are where we must begin. Along with our proposals for regulations in section 31 we have asked for amendments to Bill 163, part IV, the Municipal Act, sections 55 and 102. These are listed on a separate sheet which you have in front of you. These amendments could help resolve the problems.

The landlords are taking appeals to the property standards committee and receiving repeated extensions of time and the tenants are being deprived of access to the remedies in the Rent Control Act which were intended to resolve these very difficulties. It's essential that we begin now to do something about this. I certainly hope that the Americans don't get wind of it and decide to send the troops up here to restore democracy to the property standards department.

As I said, I kept it as short as I could. I would certainly like to discuss it further with the committee.

The Acting Chair: Before I turn to questions, the clerk has canvassed the room to find out if Ms Wandal is actually here. We have not been able to determine if she will be present. Is she just delayed or—

Ms Donovan: Yes, she'll be here by 4:30. I called

and told her about the change in time.

The Acting Chair: Okay, very good. We've lost track of where we left off before. I will turn to Mr Eddy. Basically, it's about two minutes per side, please.

Mr Eddy: Thank you very much for your presentation bringing your concern. There are some hearings that are conducted in this manner. That's unfortunate and it shouldn't happen. You are suggesting changes to prevent that. Those are amendments to the Municipal Act.

Ms Donovan: The Municipal Act and the Planning Act.

Mr Eddy: I realize what you're saying and I know that it does happen in certain other cases. I was thinking of cases under the Trees Act where sometimes hearings are held in a very like manner. Have you discussed it with the council?

Ms Donovan: The real problem is that this has been going on for so long and it's such a standard procedure that nobody can get a handle on the fact that it's not right. The respondent in an appeal is not supposed to talk privately with the judge.

Mr Eddy: Yes, exactly. I agree with you.

Mr Grandmaître: One short question: Doesn't Bill 120 answer some of your concerns concerning the property standards committee?

Ms Donovan: The problem is that if a landlord's ordered to fix the building and he appeals the order, and he's given an extension of time, the order preventing a rent increase which is supposed to take place if he fails to comply with the order is delayed. If he gets a three-month extension and another three-month extension, the remedy in the Rent Control Act never happens, because the OPRI, as it's called, the order preventing a rent increase, cannot be acted upon until the extension is—

Mr Grandmaître: And Bill 120 doesn't answer this?

Ms Donovan: It would if the landlord didn't get an extension. I mean, this committee is like a judge, you know? If they give the guy an extension with the Rent Control Act—

Mr Grandmaître: It can go on and on and on.

Ms Donovan: —you can't take it away from him.

Mr Murdoch: As I understood, Bill 163 is going to open up some of the meetings and hopefully there are not as many secret meetings and private meetings held with councils and that. Hopefully, some of that would rub off on to some of your problems, but you have some amendments. Maybe I'll just give you a few minutes to explain some of them to us, because you don't have much time, if you want to maybe just explain some of those amendments that you'd like to see happen, get them on the record.

Ms Donovan: Which ones did you want?

Mr Murdoch: Just whatever you think is most important to you.

Ms Donovan: The amendments to the Planning Act: Under "officer" I've got "as prescribed," which is something I would like to put in the regulations because it just says "an officer appointed for this purpose." I can't find anywhere where his duties are defined or his behav-

iour is controlled in any way in so far as it relates to this committee. There are things in there that say he can go into premises and he has to have a search warrant for certain things and stuff like that, but as far as his relationship with the property standards committee is concerned, that hasn't been dealt with.

The other ones: "Establishment of a property standards committee as prescribed" is because half of that subsection is mandatory and the other half is permissive. They're supposed to establish this committee and they have the right to set the terms and conditions as may be prescribed in the bylaw, but if they don't prescribe anything in the bylaw—it's too wide open. There's no way of getting anybody to actually do something unless they decide to do it.

The same thing applies to the rules of procedure in the committee. I was on the committee; nobody ever told me what the rules were. I didn't get any documentation, I didn't get any copies of any acts that I was supposed to follow, the Statutory Powers Procedure Act or anything. This is just a nice group of people who are volunteers in the community. They get together and volunteer for this committee and they want to do their little bit, but nobody has given them the proper guidance, that's the problem, and it isn't written down anywhere that they have to give them the proper guidance.

Mr Murdoch: Maybe, though, some correspondence with the ministry, and they could send someone in to—

Ms Donovan: That's the next step, but I thought—

The Acting Chair: If you've finished your statement, Mr Murdoch, we will have to turn to the other side. Ms Donovan, if you would just finish your thought there before we get into a longer conversation.

Ms Donovan: That's the next step, to talk to the rules committee of the Statutory Powers Procedure Act, but if we can get at least these committees into the Municipal Act, add in section 55 "or any committee appointed by local councils or boards, as prescribed." The reason I put "as prescribed" in there is because there are a lot of different kinds of committees and some of them would need far fewer controls, if you'd like to call them that, or direction than others. A committee that doesn't have any power of decision would need more direction than a committee that just met to discuss libraries or whatever. The other one, section 102, should include committees appointed by council.

The Acting Chair: Sorry; I'm a librarian in my other life. We could talk about libraries at great length, but I'm not sure you really want to do that.

Ms Donovan: But you don't have any powers of decision.

The Acting Chair: Oh, some of them do. Anyway, I want to turn to the government side.

Mr Gary Wilson: Thanks very much for your presentation. It certainly brings light to one area where more openness might be of help. I know you've submitted some other documents that will help us see exactly what it is you're trying to achieve here. But I would like to ask the parliamentary assistant and maybe the staff of the ministry whether they have a reaction to what is

being proposed here, whether they see this as something—

Mr Hayes: The amendment for section 55 is what you're talking about?

Mr Gary Wilson: Exactly, just to see what your response to a meeting of the—

Mr Hayes: You're talking about the officer for the property standards committee, that you wanted to amend that so it would be part of the definition after local boards. That would be included in this here. It says in section 55, "committee" means any advisory or other committee, subcommittee or similar entity composed of members of one or more councils or local boards," and it goes on that "local board" means a local board as defined in the Municipal Affairs Act, except municipal police services boards, library boards and school boards," so it would be included in there because there are only a couple of exceptions. Am I correct in that?

Interjection: That's correct.

Ms Donovan: These are committees that have councillors on them. Some of these committees don't have any councillors on them; they're just community people.

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Mr Peter-John Sidebottom: The Municipal Affairs Act describes a local board as a number of different characteristics, part of which says "or a board or a committee or a like entity appointed under a special act exercising any powers of the municipality." While certainly I want to check with our legal staff as to whether or not it is, it would seem to me that given the general definition, this in fact is a body exercising a power of decision.

It is appointed under a special act, even though it's made up of both council members and community volunteers. It would be covered by this legislation and therefore the rules about open meetings would apply, as would the rules of disclosure and so on.

FEDERATION OF METRO TENANTS' ASSOCIATIONS

The Acting Chair: I would at this point like to ask if Ms Wandal is in the room. If you would please come forward, since you have shared your time with Ms Donovan, we've come to the—

Ms Deborah Wandal: Ms Donovan shared with me actually.

The Acting Chair: In any case, we have come to that time on the clock where it is your turn, if you would, once you're comfortable, begin your presentation.

Ms Wandal: I would like to apologize first: I have only seven copies of the deputation, but I believe that you will get a handout that has some graphs or charts looking like this.

The Acting Chair: I think the clerk may be making copies of them as we speak, so we will be getting them.

Ms Wandal: All right. There were 20 of the charts. I will be referring to them as I speak.

I'm here on behalf of the Federation of Metro Tenants' Associations, and for those of you who aren't familiar with us, because we don't frequently come before the standing committees in order to deal with planning

issues—we come usually on other matters—we're a membership-based tenants' organization and we do a lot of work with tenants to help them secure and expand their rights. We work to help tenants organize their own associations in their buildings in order that they might deal more effectively and in a more coordinated manner with their problems and organize themselves to assert their rights more effectively.

We've done a lot of work in the area of legalizing apartments in houses, we did a lot of work on Bill 120 around the care home issue and we are now working on the issue of inequitable assessment of rental residential buildings, which results in tenants being overtaxed. We have a lot of experience; we've been around for 20 years.

We're here today because there are amendments to the Planning Act which cause us considerable concern and we believe that these amendments will have a major impact on the lives of tenants in the Metro area.

We are not an expert, and we don't pretend to be, in the area of planning and development. We don't really know the intricacies of the entire development approval process. But in some respects in our ignorance we're perhaps representative of most of your constituents who have little understanding of how planning decisions get made or of their long-term and extensive impact on our daily lives and our environment.

For this reason, in some ways we're precisely the sort of people whom I think you need to hear from and who should be included in this process, because we're the ones who will live with the effects of this legislation for many years to come.

In our dealings with tenants, the primary concern that we hear tenants voice—and we speak to over 6,000 of them a year on our telephone line; we talk to over 100 tenant groups a year—and what we hear from them is the ongoing central concern with affordable housing, and in fact the lack of affordable housing. The major concern for tenants is always economic evictions and living with the threat of the ever-increasing rents and whether or not they can meet those increases. Tenants have been particularly affected by all the recent cutbacks in UI, social assistance, because while all tenants are not low-income by any means virtually every low-income person is a tenant.

What we also would like to stress here is that tenants are not an insignificant part of your constituency. They form over 36% of the Ontario population, but in centres like Metro Toronto they're well over 42%, and in many of the municipalities in Metro they're over 50% of the population. Our concern that's central to us today is, where are all these tenants going to live, and who's going to build affordable housing for them? Now, our concern stems from the fact that the ministry has defined "affordable" in its policy statements in such a way that the very problem of affordable housing seems, to some extent, to disappear or at least shrink to manageable proportions.

I'd like to look at some of the statistics that I handed out. For 1994, the estimated income at the sixth decile, which is the 60th percentile of income distribution, is about \$63,000. That means 60% of people earn under

\$63,000. This sixth decile is what the ministry uses to determine what is affordable. "Affordable" means that people with incomes in the lowest 60% of income distribution have to be able to afford the housing. To be clear, this doesn't mean that everybody in this lowest 60% has to afford the housing; it just means that people at the 60th percentile need to be able to afford this housing.

It's our opinion that while 30% of all new units are supposed to be affordable according to this criteria, we believe that private developers using this particular criterion of 60th percentile will be able to meet their quota by creating more condominiums and/or smaller homes on smaller lots. This will substantially increase the possibility of home ownership for those whose incomes fall between the 50th and 60th percentile.

But what will such housing do for the vast majority of tenants? We believe it will do absolutely nothing, because if you look at the data, instead of taking all households, if you just take the universe of tenant households, at the 60th percentile the average income for tenants is only \$43,000, not \$63,000. So that means if housing is built to even meet the needs of people at the fifth or sixth decile, or 50th or 60th percentile, the housing that will be provided will be accessible to those who earn between \$53,000 and \$63,000; it will not be accessible to tenants who are earning \$43,000, and 60% of tenants earn less than \$43,000.

By using this larger universe of all households and including the incomes of very wealthy individuals in this group, the province has created a test for affordability that we believe bears no relation to the ability to pay rent of those households which actually need affordable housing.

So our first recommendation is that the affordable housing target, which municipalities should be obliged to meet, should refer to the sixth decile of all tenant households as the benchmark.

Now, there is another affordable housing target that the government sets in its policy statements, and that is that one half of all these affordable housing units be affordable to the lowest 30% of the household income distribution; that is, in those cases where the municipalities find that this is feasible, and "feasible" is not defined.

When we look at the statistics again and the charts here, we see that at the third decile for all households we're now at an income level of \$34,000. But again the reality is that 50% of tenants earn less than \$35,000, 50% of the tenant population. So using this non-mandatory directive on the part of the province is just beginning to address the real needs of tenants for affordable housing.

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The question here for us is, who decides what is feasible? Are municipalities required to put any effort into making a project feasible? Where does their obligation lie? We see no mechanisms that give municipalities a clear role to play in furthering the affordable housing goal. We'll refer later to some of the ideas that are recommended in the policy statement and how those will work out through the practice of the Planning Act.

If we're looking, then, at who is going to build this affordable housing, it's pretty clear that the private sector simply cannot afford to. In Metro, there has been virtually no rental residential building that's gone on in the past 15 years. Realistically, the private sector cannot afford to build rental housing that is affordable to most tenants. There is simply no profit to be derived from that level of rental revenue. To us, the ministry's affordability test is really an exercise in redundancy because developers and municipalities don't need to be told to build houses for households with \$63,000 incomes. They're already doing that. It's a viable market. They'll continue to address that need.

If we look at the provincial priorities, unfortunately we have to discount the possibility of a lot of contribution from the province. In dealing with the city of Toronto's official plan, the ministry made it quite clear that cities could not expect a lot of provincial funding for non-profit housing. The ministry wanted Toronto to stress providing housing to a much broader range of households rather than the historical tendency of Toronto to concentrate on housing for low-income households. The Ministry of Housing found that somewhat unrealistic, given the fact that there wasn't going to be funding for non-profits.

The ministry has clearly stated in its materials that it's not interested in how the municipalities will meet the provincial policy directives; the focus is on achieving these policy objectives. We think that this is irresponsible of the ministry. Knowing that the municipalities can no longer rely on provincial funding for non-profits, the province has not given the municipalities any effective binding mechanisms to strengthen their bargaining power with private sector developers.

Municipalities need to be able to secure affordable prices and rents and regulate resale prices and obtain contributions of land and units in return for rezoning agreements. The city of Toronto is anticipating those kinds of problems now that it has to develop a new municipal-private sector relationship. We recommend that the municipalities be given such legislative power to apply legal pressures to private developers.

The third option, given that the province is out and the private sector and large-scale development is out, is small-scale intensification. That is what in fact the policy statement recommends, that this is what the municipalities look to in order to meet their affordability quota. The housing created through intensification can now be included in the affordable housing quota. It wasn't included under the old Land Use Planning for Housing policy statement.

Our problem here is that virtually all affordable housing that will be approved through the process of small-scale intensification will have to go through the process of minor variances, and owners who apply for such variances will only get to deal with the municipality, whether it be the council itself or first the committee of adjustment and then an appeal to council as a last resort. There is no mechanism to go beyond the municipality.

Our question is, where are the practical mechanisms that will ensure that in all these applications for minor variances the municipality's decisions are in fact consist-

ent with, as they are supposed to be, the provincial direction and achieve the province's objectives? We don't see the checks and balances.

We think that the ministry needs to consider what home owners can do when the municipality consistently flouts the policy statement by refusing to allow minor variances that would permit small-scale intensification.

The Acting Chair: Excuse me, you've actually exhausted your time, but what I would like you to do is—I realize you have two pages left—if you could just do a really quick synopsis of the highlights of those last two pages. I believe Mr Wilson might have one clarification relating to some statement on housing. Please continue.

Mr Perruzza: Perhaps you could concentrate on why small-scale intensification would require minor variance, go through the minor variance process; I can't see that, but if you could speak to that, that would be good.

The Acting Chair: Mr Perruzza, I think it really would be wise if she's allowed to finish making her summation for all of us, and if you wish to question her about this, I would suggest maybe having a quiet conversation with her in the hall.

Mr Perruzza: But that answer would be good for the record, because that's a serious issue if that's the case.

The Acting Chair: But we haven't heard the complete deputation.

Ms Wandal: Small-scale intensification is to be permitted except where infrastructure is inadequate and where there might be significant physical constraints. Given that in the past year we've been dealing with many concerns from municipalities which were furious at the notion of even adding one unit to a house, we're very concerned that most municipalities will find their infrastructures to be inadequate. They will say that there are physical constraints that make it impossible to allow small-scale intensification. We have heard constantly about overload of all kinds of systems, and we're not quite sure how and if the municipalities are going to be ready to approach this in a progressive way.

Small-scale intensification can involve minor variances because in many cases people need to change a façade, add a door, add small additions to their house; they might want to add another storey. Those are the sorts of things for which minor variances apply.

Our recommendation is that if in fact, as the ministry says, a lot of this is going to be worked out at the official plan stage and all these disputes about appropriate land use are going to be solved in the process of developing an official plan, we want to make sure that it's not just, as I say here, the usual suspects who get invited to participate in the official plan, that notification gets sent out to supposedly interested parties. The implications of these official plans are going to be so broad that we would like to make sure that as many different interest groups as possible are involved, and we would certainly like tenant advocacy groups to be involved.

Our very last point has to do with the existing housing stock, and it's really to follow up on what Mary Jo Donovan was talking about. That is probably our greatest

resource, the existing stock. It's recognized that it is in danger of deteriorating; in fact, it is now. There isn't sufficient accountability, we believe, at the municipal level to ensure that proper inspections are done, that in fact work orders are enforced. What this means is that what is likely to be the most affordable housing, that is, older housing, is going to slip off the market if it deteriorates so seriously. There are many surveys that have estimated that in 10 or 20 years, unless major renovations and repairs are done, we're going to be without that housing.

The province has talked a lot about power and accountability and the balance between them in these amendments. We'd like to see the municipalities being more accountable for enforcing their own standards, given that they have all the power to do so and there's no provincial interference in that area; that's their domain, essentially.

The Acting Chair: Ms Wandal, I thank you. I'm going to ask Mr Wilson to likewise have a chat with you about one or two of your comments relating to the Ministry of Housing.

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SAVE THE OAK RIDGES MORAINÉ COALITION

The Acting Chair: At this point, I would like to call Save the Oak Ridges Moraine Coalition, David McQueen and Dorothy Izzard, to come forward.

Mr David McQueen: The Oak Ridges moraine is 160 kilometres long, but I think we represent it fairly well. On my left is Niva Rowan of SAGA, Save the Gananaraska Again. She's from the east end of the moraine. I live near Uxbridge, so I'm sort of central. On my right is Dorothy Izzard, who is in King township, a member of Concerned Citizens of King Township. We propose to split the presentation so that you'll get a little variation in the voices that you hear. I'd like to ask Dorothy Izzard just to say a couple of words on what STORM is.

Mrs Dorothy Izzard: I believe that you could reference the very back page of our document. You will see that even though I was described as being in the west, the Oak Ridges moraine goes much further.

STORM Coalition is made up of groups which realized that they could not achieve individually what was needed for the entire length of the moraine, that it had to be a provincial matter. From the outset, we have sought legislated protection, but from the beginning it was soon apparent that what we needed in Ontario to help with this was integrated and comprehensive land use planning. By "integrated" I particularly mean at an interministerial level.

We corresponded with Premier Bob Rae about this issue almost at the very second that he was appointing John Sewell to head the commission on land use planning. The Premier urged us just to be patient and that this commission and the resulting legislation would solve our problems; we are hoping so.

STORM Coalition has also been very active with membership on the technical working committee of the Oak Ridges moraine study, which was a provincial

initiative. The resulting strategy is presently being finalized and must be brought to fruition within the framework of this legislation we're looking at today. This background should make it clear to you why Bill 163 is so important to STORM.

Mr McQueen: Thanks very much, Dorothy. From an environmental standpoint, Bill 163, as we read it, represents, at least in its potential, an advance on the status quo in planning in Ontario. But it does, as it stands, offer less environmental protection than did John Sewell's recommendations. For example, one of Sewell's key recommendations was that the environmental assessment process be incorporated into the process of planned development and assessment and evaluation. This has not been done, and we'd like to see some strengthening on that score.

While the bill does assign more planning responsibilities to municipalities—and in many ways we thoroughly agree with that—there still remains—this must be emphasized—a very important role for the province. When the province, for example, makes policy statements in this area, those policy statements are important, and the province must see that they are in fact observed. It cannot just make them and then walk away from the situation.

As it stands, too—and of course there may be some corrections in the pipeline for this—the bill does suffer from vagueness and lack of clarity in many of its passages. Any of you who've had anything to do with planning and planning legislation will know how crippling that can be. When you have legislation affecting municipalities and other agencies across the length and breadth of the province, it must be clear what the directives, what the policy statements are, and this is not wholly the case at the present time. Maybe this will be corrected to some degree by the promulgation of regulations under the act.

One thing—due to some mess with my word processor we have left out here a point we wanted very, very much to make to you—is that the vital phrase “consistent with,” meaning consistent with provincial policy in this area, should apply not only to the Ministry of Municipal Affairs and to municipalities but to all the ministries, agencies, crown corporations of the Ontario government, including not least Ontario Hydro. It is not logical, it is not right that they should be exempted from the “consistent with” provision. Everybody should be treated alike in that respect.

There is a reference in the bill to “sustainable economic development,” but development has more aspects than just economic aspects. It also refers to community development and other such dimensions of progress in our society. The original phrase “sustainable development” comes from the UN's Brundtland commission, and they just said “sustainable development” without putting in the word “economic.” Putting in “economic” suggests that the economic side has some kind of precedence over everything else. That's wrong, that's not even good economics, and that should be corrected.

I'd like to hand you over to Dorothy Izzard at this point on the subject of watershed and subwatershed planning.

Mrs Izzard: This brings me back to the issue of integrated interministerial communication within the government. It's interesting that Bill 163 does not address watershed and subwatershed planning, and yet in June 1993, the Ministry of Natural Resources and the MOEE released three interim documents establishing directions in regard to watershed planning.

One still wonders why this has not been reflected in Bill 163. You have many other recommendations, including David Crombie's, but here it is, recommended by two other ministries and it's a crucial part of planning, and yet it's not in Bill 163.

Mr McQueen: I might just add to what Dorothy said that watershed planning isn't a blue-sky idea up there; it's actually being practised in this province and with some success, notably in the Credit River watershed and again in the Kitchener-Waterloo area. It's there; it operates; it works.

Another problem we'd like to draw to your attention is the proliferation of official plan amendments, which is something we run up against and perhaps some of you have also. A municipality promulgates some kind of official plan, but is there any part of it you can hang your hat on? Not if there are going to be over 100—and I am not exaggerating; there are cases of this kind—official plan amendments within three or four years after the promulgation of the plan. You can't really call that planning. It offers the public no sort of reliability, no sort of stability in the situation.

Sewell's report dealt with this very effectively. It recommended that comprehensive planning by a municipality be limited to official plans and general plan reviews. As other people came along wanting alterations in the plan, they would have to wait for these until the next general plan review. This provision of Sewell's would give planning some real stability, some meaning, which it does not have in a number of our municipalities in Ontario at the present time.

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I'd like to draw your attention also to the matter of pre-approval site alterations. Where somebody proceeds to drastically alter land form, take out trees and so forth before receiving any official approval to do this, under whatever plan may be in effect—he just sends in his equipment and does it—it becomes a fait accompli, without reference to the plan or to any provincial policy statements that may be in effect. I think you have to build into this act some protection against that.

If you go now to section 10 of your bill, which is on page 10 and amends section 17 of the Planning Act, what you have there is a series of protections of the Ontario Municipal Board against trivial, insignificant referrals to it. Among these protections is a provision which says: “the person requesting the referral did not make oral submissions at a public meeting or written submissions to the council before the plan was adopted.”

If you're in that position, apparently you're supposed to be out of luck. That overlooks the way things happen in a lot of municipalities and the difficulty that people who have to put in a full working day have in discover-

ing in a timely way what the hell is going on in their municipalities and what the new plan is going to be. Sometimes this goes through well after midnight on a municipal agenda. I don't think you need this provision in the bill. You've got all sorts of other protection against trivial and bad-faith referrals to the OMB. I'd take this one out.

There's another matter of public access to our planning system that to us is of even greater importance, and that is intervenor funding. The typical situation when a citizen group wants to appeal a planning decision, or even just participate in it, is that it finds itself up against developer and municipal interests that have awfully deeper pockets than any group of citizens can be expected to have and a much more formidable phalanx of lawyers to plead their case. If you're going to have true citizen access to a planning system, you really have to improve those odds a bit, and that is why we think a provision for some reasonable amount of intervenor funding is a vital part of any reform of planning in Ontario.

One final point that I'd like to make before handing you over to my colleague here is that in looking over Bill 163 it's apparent that much of the Planning Act is being brought more into accord with modern ideas about the environment and its protection but not nearly as much attention has been devoted to doing the same thing to the Ontario Planning and Development Act, and that unevenness needs to be corrected. The same pro-environment standards should apply to the planning and development act as apply to the Planning Act itself.

The last part of our submission has to do much more specifically with legislation affecting the Oak Ridges moraine, and for that I'd like to turn you over to Niva Rowan.

Mrs Niva Rowan: As Dorothy observed, where she is living in King township is to the west, but the moraine goes much farther west. Where I live, to the east, the moraine goes much farther east; in fact, it goes to Trenton. If you're aware of the size of this land form, it is a crucial land form in southern Ontario feeding all of our headwaters and river systems in the south.

As we observed earlier, sound and general planning legislation in Ontario is a highly necessary condition for safeguarding this moraine. It is not, however, a sufficient condition; more is required. Even with the best possible general planning legislation in place, the moraine will still require an important element of special treatment and special legislation, much the same as the Niagara Escarpment legislation.

In the case of the moraine, one major reason for special treatment is that its underground aquifers and related features cross many municipal boundaries. In fact, there are 15 municipal boundaries across the moraine only within the GTA, and they have to be treated holistically. Watersheds, too, have to be looked at as a whole, as Dorothy was mentioning in the area of watershed planning. As the saying has it, there is always somebody downstream.

The need for special treatment of the moraine has effectively been recognized by the province in its initial expression of provincial interest, in its promulgation of

guidelines for the moraine and in its appointment of the technical working committee and citizens' advisory committee to work out an implementation strategy for these guidelines. That strategy, though not finalized at this point, will be before you in the Legislature quite soon.

The technical working committee is considering three basic implementation strategies. These are a provincial policy statement under section 3 of the Planning Act, a provincial plan under the Ontario Planning and Development Act, and a provincial plan under new legislation.

Out of our considerable experience in fighting many local battles to try to safeguard the integrity of particular pieces of the moraine, and we have all been involved in that at this table, we strongly favour option 3. We need strong, legislated protection for the moraine and not a policy statement. It has the strongest legal teeth and offers the most important permanent protection for the moraine. It can utilize many institutions and practices already in place and so need not involve heavy new overheads and expenditures.

We should also like to mention some particular concerns we have about aggregate extraction. This is a thorny issue in this province. By dint of much work and expert consulting input, the technical working committee has designated 26.2% of the greater Toronto area portion of the moraine as environmentally sensitive core and corridor areas. That means they are to be left alone; passive recreation uses only. The aggregate industry, however, insists that it must have the right to extract its product in these core and corridor areas as well as in the remaining 74% of the GTA moraine, and this position appears to enjoy support in some quarters in the Ministry of Natural Resources. In fact, it's their mandate.

STORM fully recognizes the importance of aggregates in the Ontario economy. We need it for roads and we need it for houses, but we cannot accept—and many other groups and individuals are with us on this, including the Federation of Ontario Naturalists and the Conservation Council of Ontario—that the industry should enjoy an absolute priority over every other land use and environmental consideration. We cannot accept that. That is bad economics, it's bad ecology and it's bad planning. We urge you, when this matter comes before you, to insist on a more balanced and reasonable position between contending visions of future land use on the moraine.

The aggregate industry already enjoys extraordinary overriding powers under the Aggregate Resources Act, powers that might well surprise some of you at this table and would certainly surprise most of the Ontario public. It is a piece of legislation worth your looking up if you have not recently done so.

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Mr McLean: I want to thank you for coming forward and bringing your concerns to us with regard to the Oak Ridges moraine. There have been other people who have spoken on that very issue and the importance of the stretch of kilometres that it covers. I have no particular question because you made it very clear, so I thank you for coming.

Mr Wiseman: Thank you also for coming. One of the concerns that I have when dealing with issues in local councils is that there isn't any really clear definition of what can and cannot take place in a municipality; that the zonings and the official plans are far too fluid in terms of what's in them. I agree with you in terms of—and I've said it more than once and it won't come as any surprise here—I don't think they're worth the paper they're written on, because councils don't pay any heed to them. Durham region, for example, has an official plan. They already have at least five major official plan amendments to the plan that is not even a year old. So why bother spending all this time on official plans and planners and people at this level if all the councillors are going to do is ignore them anyway?

We've heard from others saying that "shall be consistent with" must stay as the very minimum in terms of the requirements and that we need to get rid of all the rest of the "maybes" that are in some of the statements and in the legislation. How do you feel in terms of it being more rigid? Can you give us some ideas on the wording that we could look at changing in terms of making this far more accessible to you as an environmental group trying to protect the environment?

Mr McQueen: Yes, I think we could, and I'll invite my colleagues to chime in on this one. I would say one thing first, though. There's a great deal of variation between municipalities in their planning performance. One can identify certain municipalities that by and large have done a pretty good planning job. King township, for example, ranks high on our scale, Halton region has done some good things, and we're also very impressed with some of the planning that's gone on in the Kitchener-Waterloo area.

But you're quite right. I think a lot of the difficulty lies in the language that is used in planning at the present time: too many fuzzy words; too many words that are capable of umpteen different meanings. I understand that you have received, or will receive, some representations from the Canadian Bar Association on this. They come quite heavily on this matter. If we're going to have firmer provincial statements of policy with which municipalities are required to conform, then, for starters, the language has to be a whole lot clearer than anything we've had up to this point. You can't have a draconian, dictatorial, day-to-day supervision of municipalities by the province. It's got to be a more broad thing, which leaves some room to move around.

I guess I come mainly strongly on better clarity of language and also something to stem the tide of numerous official plan amendments. I like Sewell's idea on that and I think that could improve matters a good deal.

Mr Curling: I think your presentation raised some extremely important points. I'm going to have to agree with Mr Wiseman in saying that they're not worth the paper they're written on, some of the plans that they have. I have some sort of respect for those people who have put a lot of thought in it, but I just hope that when these plans are being reviewed, they pay that kind of respect to some of the people who have put some deep thought into it.

I fully agree with you. You're expressing some of the thoughts expressed around the province that the bill is vague. That's not surprising to us, because people have articulated that after spending I think \$3 million and two years with Sewell, who has expressed to us he has learned a tremendous amount about this province and how it should be planned and the sensitivity of each group that appeared before him, a policy came out that was completely off-focus from what he had recommended.

As you said, the bill should incorporate Sewell's recommendations to guard against some of the proliferation that you see there, and the government is not listening to what the \$3 million and two years of hearings stated. Of course, Sewell also recommended about intervenor funding, which they did not listen to.

Mr Hayes: Do you support it?

Mr Curling: Whether or not I support it is quite irrelevant.

Mr Hayes: We want to know.

Mr Wiseman: You are ready to make a speech, but don't take a stand.

The Chair: Order, please. Mr Curling, please finish.

Mr Perruzza: About the only meaningful thing you said, Alvin, is that whatever you think is irrelevant.

Mr Curling: As soon as you touch the cage, they all come out rattling.

Mr Perruzza: Then don't rattle it, Alvin.

The Chair: Order, please. Mr Curling's about to finish. We're running out of time.

Mr Curling: We're saying that these hearings are really a follow-up of what had been done by Sewell and the legislation.

Tell me, do you have enough faith to think, after this vague legislation, that this regulation which we'll never see, that implementation guideline, will somehow bring some credibility to this vague legislation?

Mr McQueen: There is a pretty impressive committee appointed, with representatives from various groups, to promulgate some of the regulations that are to be brought forward under the aegis of this act. If that committee does its work well and is listened to by the Legislature, it may be able to bring into the situation some of the clarity which I gather we all desire here.

I think its work is extremely important. You cannot put everything into a piece of legislation. We have made our criticism of the legislation as it stands, but even if it's improved, you can't put everything in there. The regulations are terribly important, especially in an area like this.

Mr Curling: Do you think we should see the regulations before?

The Chair: Mr Curling, I'm sorry, we've run out of time for other questions.

Mr Curling: That's the problem with these omnibus bills.

The Chair: Thank you for the interest you've shown on this particular bill and thank you for sharing a lot of the concerns with this committee.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION;
ONTARIO ASSOCIATION OF SCHOOL
BUSINESS OFFICIALS

The Chair: We invite the Ontario Public School Boards' Association. Welcome to the committee.

Ms Donna Cansfield: My name is Donna Cansfield. I'm the president of the Ontario Public School Boards' Association, and with me today is David Burnham, who is president of the Ontario Association of School Business Officials, representing both public and separate school business officials. Also with me is Shawn Callon, who is the principal planner with the Waterloo board of education and the chair of the planning committee for the Ontario Association of School Business Officials.

As an introduction, the Ontario Public School Boards' Association represents over 90 public boards of education from all regions of the province serving over 1.7 million students and adult learners. As a local government association we speak for public school trustees and for public education.

The association supports the principle of open local government, as in the proposed new Local Government Disclosure of Interest Act, 1994. We recognize that the current Municipal Conflict of Interest Act is less than perfect legislation and has not provided clear guidelines for elected officials or for our citizens.

The association participated in the Ministry of Municipal Affairs advisory committee on open local government and municipal conflict of interest in 1992-93, and we are pleased to see that many of our recommendations have been included in the draft legislation.

In 1992, in a report of the four trustee associations, we requested that the legislation be renamed local government conflict of interest, and we're pleased to see that local government is recognized as both municipal and school boards for government.

Dealing with subsection 2(3), pecuniary interest, we support the bill's clearer definition of "pecuniary interest" as matters that are of financial interest or benefit to oneself, one's spouse as defined under the Family Law Act, and to one's child. We agree that when reporting a financial interest a member must avoid joining in the discussion, voting or attempting to influence the outcome, and should leave the meeting and remain absent from the meeting until the matter is no longer under consideration.

For section 4, disclosure requirements, the concept of disclosure is supported. In 1992 the school board association strongly opposed previous recommendations calling for complex lists of detailed financial information listing the amounts of assets and liabilities, and we are pleased to see that this has been changed. Also, some protection must be provided for references to the name of a member's spouse and/or child that can and should be kept confidential.

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For section 6, filing disclosure statements, the school boards' association does not support this section of Bill 163. In 1992 the association stated that "disclosures not be submitted to or filed with the secretary of the board, but rather that such disclosures be sent to a central

registry and handled in a manner similar to that for members of the provincial Legislature under the provincial Members' Conflict of Interest Act."

I give you as an example isolate boards in the north, who would have one more piece of legislation demanding them to set up another structure they're ill prepared either to perform or have the money for.

Many public school trustees believe that the registry of disclosure at the local board office could also be abused and an invasion of personal privacy as well. Our association supports a process similar to provincial members' rather than the processes outlined in the bill. It is our understanding that members of provincial Parliament file detailed statements of disclosure with the province, then more generalized reports, deleting specifics, are filed with the Clerk of the Legislative Assembly, with public access only to the general reports, and individuals who wish to receive these documents must file a request with the Clerk's office.

We would like a similar process for locally elected officials, with one central registry of disclosures and a general statement of disclosure available to the public upon request.

We also would ask that the courtesy be extended that the elected official be told if in fact there is a request.

Under section 7, the local government disclosure commission, we recommended in 1992, rather than create another commission and bureaucracy, that the provincial commission responsible for provincial conflict of interest be expanded to include local government. This continues to be the preferred course of action and is consistent with the above recommendation that the registry of disclosures be a central agency. The bill does not provide information on the operation or financing of the proposed commission, and we urge consultation with the school trustee associations on these regulations for implementing the local government disclosure of interest act and the local government disclosure of interest commission.

As you can see, in general we're very supportive of this portion of the bill. We do have our reservations, and we make these following recommendations:

(1) We recommend that section 6 of the bill be revised to provide for a central registry of local government disclosure of interest at a central agency, and a process of public access similar to that of members of provincial Parliament.

(2) We recommend that section 7 of the bill be amended to delete reference to establishing a new local government disclosure commissioner and that the function be added to the mandate of the existing provincial commission for provincial elected officials.

(3) We recommend that the province include public school boards and trustees as an integral part of the process for drafting the recommendations for implementing the local government disclosure of interest act.

Mr David Burnham: My comments are both on behalf of OPSBA and on behalf of the Ontario Association of School Business Officials.

OPSBA supports the general directions for planning in Ontario contained in Bill 163. However, the association

recommends that the bill be strengthened to ensure that the educational concerns are recognized in the planning process. As you undoubtedly know, OPSBA and OASBO participated in the Sewell commission's consultation process. Two briefs were prepared in response to the commission's request for input and a meeting was held with the commission. These briefs contained a large number of recommendations for improving the Planning Act, provincial policy statements, and the planning process procedures. Today OPSBA will present only three of the recommendations relating to the Planning Act, which the association views as most important for school boards.

As you may know, education is a critical aspect of community life, and its neglect in the land use planning process is a serious issue to school boards. The Metro school board, for example, has noted that "availability of educational facilities is an important factor in good planning, just as the availability of municipal services such as roads, water and sewers are important factors. The Planning Act should ensure that all approval authorities, in considering development applications of a residential nature, give consideration to the availability of school sites and student accommodation as important criteria in reviewing those applications."

More recently, as the Peel Board of Education has noted in a recent resolution before the Ontario Municipal Board, "The courts and the Ontario Municipal Board have interpreted the Planning Act in such a manner as to restrict the rights of the board to object to new housing developments." School boards in growth areas have supported amendments to the Planning Act to ensure that appropriate steps are taken to ensure that housing developments proceed only where school sites and school accommodation are available.

As you may also know, the accommodation needs of Ontario's public school boards have been rapidly escalating over the last few years. There remains a significant backlog of unfunded requests for new schools to meet the needs of growth, additions, and permanent classrooms to replace portables, as well as renovations.

To give you just one local example of the backlog in school facilities, the Durham public board of education has 12,500 students in some 520 portables, and this isn't atypical.

Many school boards participated, as I mentioned, in the Sewell commission's consultation process. The key recommendations made by public school boards included:

- That the Planning Act be amended to include as matters of provincial interest the adequate provision and equitable distribution of educational, health, social and recreational facilities and programs.

- That municipalities be required to develop policies in municipal plans to address the provision of educational facilities rather than just sites, and that this requirement be set out in policy and legislation.

- Furthermore, that school boards should be notified of plans and development proposals for comment. This is not always happening.

- Finally, that the Planning Act be amended to require

the preparation and adoption of municipal plans containing goals and policies therein to assist with the planning of educational facilities across the province.

The association is pleased to see that some of the recommendations have been incorporated into the government's proposed planning policy statements, for example the issue under provincial interest. The bill suggests that the following matters have merit to be considered as provincial interests, and these are, for example, "the orderly development of a safe and healthy communities," and, second, "the adequate provision and distribution of educational, health, social, cultural and recreational facilities." With the addition of adequate provision and distribution certainly OPSBA supports these recommendations.

OPSBA also supports the issue of a mandatory official plan. In the past, a number of jurisdictions did not have a plan, and school boards were left, as were other public agencies, not knowing what the goals were of the municipality. In this context, OPSBA supports this amendment.

The adequacy of school sites: OPSBA supported the Commission on Planning and Development Reform's recommendation that legislation require municipalities to have policies in their municipal plan addressing the provision of educational facilities and not just sites. Such a requirement would ensure that reasonable consideration is given to providing schools—and again I say this—and not just sites, in areas designated for development or redevelopment.

In section 28 of Bill 163, the issue of adequacy of school sites is listed in regard to subdivision approvals. I've referenced clause 51(17)(j) of the Planning Act, "the adequacy of school sites." However, the more pertinent issue with regard to school accommodation, that is, that a school building is present, is not addressed with regard to subdivision approvals.

As noted in a subsequent paper that you will be receiving, or may have received today, the Ontario Separate School Trustees' Association also argued that the availability of school sites and facilities should be taken into account when reviewing plans. The approving authority has the power to stage developments so that growth is orderly and controlled. However, local municipalities do not consider the availability of school facilities when developing their staging plans, as they are of the opinion that they have no real legislative authority to do so.

The most important issue I bring before you, then, is that the adequacy of school sites and facilities must be taken into account when reviewing plans of subdivision.

OPSBA also recommends that clause 51(17)(j) of the Planning Act be amended to replace the term "the adequacy of school sites" with the term "the adequacy of school sites and facilities."

A final point: notification of school boards. As I mentioned, school boards are an integral part of the municipal planning process. We feel it is appropriate that school boards be involved in any planning issues or proposals affecting residents or future residents. With this in mind, OPSBA recommends that Bill 163 be amended to ensure that school boards be circulated on all planning

matters, such that the Ontario Public School Boards' Association recommends that the following sections of Bill 163 be revised to require that school boards be an integral part of the consultation on all planning issues: subsections 17(14) and (20), subsection 34(15), subsection 45(8), subsection 45.1(8), and subsections 51(14) and (16). All of those sections deal with the approvals process and the ability to comment on the adequacy of the school site issue.

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Finally, in addition to the OPSBA position, I'd quickly direct you to the OASBO comments, under additional concerns. There are five or six concerns that the technical planners within school boards would raise for you, again having commented to the Sewell commission:

—The possible removal of, or revision to, the provisions of the revised act pertaining to the planning with educational facilities in mind. Further consultation on any amendments is an imperative. We feel the consultation process has not been fully adequate.

—The weakness and inability of the Planning Act and provincial policy statement B1 to force municipalities to plan with school boards. Again we think there's room for improvement.

—The lack of amending legislation dealing with the dedication of school sites, or the fixing of prices for purchase of school lands. Again this goes back to the issue of sites. If the sites are available through the plan-of-subdivision process, we normally end up buying them at a market value that is much greater than what one would expect to pay if the sites were acquired prior to the approval of the plan of subdivision.

—The lack of recognition that school boards have become part of the community infrastructure.

—The need for a clearer distinction in the act that municipalities consider the adequacy of school accommodation to serve planned growth.

—Finally, the need for added amendments to the Planning Act to provide more specific guidance for the evaluation of residential development applications relative to the availability of adequate school facilities.

Ms Cansfield: We'd be pleased to answer any questions.

Mr Eddy: Thank you very much for your presentation. You certainly draw attention to a matter that's been brought before the committee on several occasions, and that's the adequacy of not only school sites but facilities. We've been shocked to hear some of the figures, not only the number of pupils in the additional facilities but also the length of time. It's quite enlightening.

I'm really struggling with how we guarantee the adequacy of school sites and facilities. Realizing the shortage of funding at all levels, how should we deal with it? In cases where we can't provide them, should major residential developments be held up until the schools can be provided? Usually the houses are there and then we try to find accommodation for the pupils. It means, in my experience, many changes in transportation routes, in the schools pupils go to, simply because of a very large increase in the pupil numbers.

You've made some recommendations. Do you really feel they will provide the guarantees you're looking for?

Ms Cansfield: What we're hoping is that it's the beginning of the answer to some of those questions; certainly, it's an ongoing process. But to exclude school boards from the planning seems to be inconsistent with trying to do the things in the best interests of a community, because of course the children are part of the community.

When you look at such things as intensification—that's an excellent example. Look at East York: Its student population has increased over 11% because of the issue of intensification. Where do they put the children? The law requires that they be educated, but we must work somehow to put the children into a school.

What we're suggesting is that there has to be a better process put in place. We're prepared to work with you. We're not just a service, we're not just there because of a whim—you know: Put in 5,000 housing and the school site will materialize. It isn't that easy and it's also very expensive when you look at the cost of obtaining the school site, much less building a school. You're looking at \$3 million or \$4 million for a site, maybe \$6 million to \$12 million to build a school. That also doesn't come just out of thin air; there's no magic wand in my pocket, certainly, when it comes to the local tax base.

What we're asking is an opportunity to find a planning process that will work where we can work together, because we have the best interests of the children and hopefully municipalities have the best interests of their broader community. It just makes sense to work together. Don't exclude one or the other.

What you're not looking at either, and I think it's really important, is the issue of immigration and the significant impact immigration has had in terms of school facilities. I can give you a personal example. I now have a school in my ward which has 830 children in a school planned for 500. Would you like to talk intensification and other kinds of cultural issues? If there had been a better planning process between the municipality, because a lot of them are refugees, and Immigration Canada, we wouldn't be in the kind of situation we are in. If only we would talk to one another: In essence that's what we're suggesting. It's sort of common sense to me.

Mr Eddy: Did you encourage your school board members to respond to circulations of subdivisions? It's been my experience in one area that the school board did not take advantage of its opportunity to respond to notification, to the shock of the municipal council. I could never understand why that didn't happen because I think it's awfully important that it does happen.

Ms Cansfield: I couldn't agree with you more, but unfortunately what has happened in the past is they haven't been asked, and all of a sudden the subdivision goes in and then someone says, "By the way, we need a school." So now what we're asking, especially if you put a municipal plan in place, is that it gives us an opportunity to review it and demand that school sites and facilities be a part of that process.

But, you see, before we weren't there, we were just

considered the service, and what "small" impact did we have on the local taxpayer? Well, it's a new ball game out there.

Mr Eddy: It's an important matter.

Mr McLean: I hope the ministry staff is listening, because what you say is so true. I've often thought that when any plans of subdivision are put on, that should be one of the key consulting procedures: What is going to be the number of units? How many new children are going to be in the community? What is the proposed supplementary plan that could be put on which would dictate for a mile around? What you're saying is just commonsense, and we've heard it before.

One of the questions I wanted to ask you was with regard to the local disclosure commissioner. When you say that that function should be added to the mandate of the existing provincial commission for provincial elected officials, I find that would be hard to do because he has about 130 members he looks at. When we get into the school boards and councils, we have probably 7,500 or so, in that range.

There's a model that's been called the Manitoba model. I kind of like that and want to look further at that. You disclose it but it's in an envelope, and until somebody really wants to see it, it's covered up. It takes away the frivolous complaints, that people just walk in and say, "What are so-and-so's assets?" You won't find out what they are, but it'll be in there, say, where they have their assets, in mortgages or what.

I have trouble with that disclosure commissioner.

Ms Cansfield: That's fair. We would also be prepared to look at alternatives. That's what we're saying to you. Obviously, we would prefer that it not be laid on, and I'll give you a good reason why. If you go into some school boards and ask how many people are working on employment equity, there are eight, and yet there'll be two people working on English. You know what I'm saying? What's happening is that we're ending up being bureaucratized with all the things we have to do. That's taking more dollars out of the classroom, and we would like to keep those dollars in the classroom. The less impact we can have in terms of administration, the better it is for us because we can redirect our resources where they belong. We'd certainly be prepared to look at alternatives.

Mr McLean: I like the recommendations you have put forward. I hope the ministry staff would take that specific one with regard to sites under consideration because I think there should be some amendments put in place for that. Thank you for appearing.

The Chair: We thank the Ontario Public School

Boards' Association for participating and for making its submission today. Mr Hayes has something to say before you leave.

Mr Hayes: I'm not sure whether you have a copy of the draft regulations or if you've had the disclosure forms, if you've seen those. If you haven't, we will send them to you, if you like.

Ms Cansfield: Are these the new forms? I saw one form and—a little tongue in cheek—there was no place for your name. I found that rather amusing. I mean, it's fine with me.

Mr Hayes: We'll make space for your name. But we'll send them to you, if you like.

Ms Cansfield: Thank you very much.

The Chair: Two quick things: If there are amendments to be given to this committee by the various caucuses, we would like those amendments to be in the clerk's office by—normally, we say 9 o'clock or 10 o'clock in the morning on Monday, at least two hours before we start. So Monday morning as early as possible. We appreciate that.

Interjection.

The Chair: If they are two hours before we begin, it makes it much easier for us to circulate around. If not, it complicates it.

Mr McLean: It would be nice if we could have the government amendments this week. If we have some we're drafting and the government's are the same, there would be no point in us drafting ours. But if they have what they have, we could do something different if we need to.

The Chair: I think Mr Hayes has heard.

Mr Hayes: Hopefully, we can get them very soon. I would actually like to sit down and compare them and see if we can do away with some duplication, and then get on with it.

Mr McLean: I really thought we would have got them about a minute after we adjourned.

Mr Wiseman: I know staff has been compiling all the recommendations that have been made by the various groups. Is there any anticipation of when we could see a copy of that?

The Chair: Mr McNaught, do we have a sense of that?

Mr Andrew McNaught: I hope by Thursday afternoon, certainly by Friday.

The Chair: This committee is adjourned until 2 o'clock, Monday, September 26.

The committee adjourned at 1743.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

***Chair / Président:** Marchese, Rosario (Fort York ND)

Vice-Chair / Vice-Président: Harrington, Margaret H. (Niagara Falls ND)

***Acting Chair / Président suppléant / Présidente suppléante:** Haeck, Christel (St Catharines-Brock ND)

Bisson, Gilles (Cochrane South/-Sud ND)

Chiarelli, Robert (Ottawa West/-Ouest L)

*Curling, Alvin (Scarborough North/-Nord L)

Harnick, Charles (Willowdale PC)

Malkowski, Gary (York East/-Est ND)

Murphy, Tim (St George-St David L)

Tilson, David (Dufferin-Peel PC)

*Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND)

Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cooper, Mike (Kitchener-Wilmot ND) for Ms Haeck

Eddy, Ron (Brant-Haldimand L) for Mr Murphy

Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Murdoch, Bill (Grey-Owen Sound PC) for Mr Harnick

McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson

Perruzza, Anthony (Downsview ND) for Ms Harrington

Rizzo, Tony (Oakwood ND) for Mr Wilson

White, Drummond (Durham Centre ND) for Bisson

Wiseman, Jim (Durham West/-Ouest ND) for Mr Winninger

Also taking part / Autres participants et participantes:

Ministry of Environment and Energy:

Campbell, Alexander, soil specialist, on-site unit, approvals branch

Ng, Wilfred, director, approvals branch

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister

McKinstry, Philip: acting director, municipal planning policy branch

Sidebottom, Peter-John: senior policy advisor, local government policy branch

Clerk / Greffière: Bryce, Donna

Staff / Personnel:

McNaught, Andrew, research officer, Legislative Research Service

Stobo, Carolyn, research officer, Legislative Research Service

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 26 September 1994

Journal des débats (Hansard)

Lundi 26 septembre 1994

Standing committee on
administration of justice



Comité permanent de
l'administration de la justice

Planning and Municipal Statute Law
Amendment Act, 1994

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

Chair: Rosario Marchese
Clerk: Donna Bryce

Président : Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Monday 26 September 1994

Lundi 26 septembre 1994

*The committee met at 1412 in committee room 2.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): I call the meeting to order. We're dealing with clause-by-clause consideration of Bill 163. I think we're ready to deal with the amendments. Before that, I suspect there are some questions that people want to raise with respect to how we deal with today's proceedings.

Mr Bernard Grandmaître (Ottawa East): I count 109 government motions. Is this the total package, or more to come?

Clerk of the Committee (Ms Donna Bryce): If I could just comment on that, the 109 is total pages, not necessarily motions. That package that you have in front of you is a collated version of government, Liberal and PC motions, and I would estimate that's only about half of the total number of amendments. We're still photocopying. We've been photocopying since 12:30 this afternoon.

Mr Alvin Curling (Scarborough North): So the question to this, then, is you're not ready yet with your total amendments.

The Chair: It's a matter of when we received the various amendments by all three parties here and whether or not we have had time to be able to put it all together.

Mr Grandmaître: Are all the government's amendments included in this package?

Mr Pat Hayes (Essex-Kent): Just one question: There are only one or two other amendments, I believe.

Ms Linda Perron: No, it would be more than that, because the total package is collated.

Mr Grandmaître: I realize this. I'm talking about the government motions. Is this the total package?

Ms Perron: No, there are more coming that will be integrated into the complete package.

Mr Curling: But they're not ready.

The Chair: The amendments are ready, but they're not part of this package.

Ms Perron: There might be a few that will be added during the week, but the bulk of the amendments are with the clerk's office.

Mr Grandmaître: It makes it difficult, Mr Chair, for our research people to look at a package that's not complete. That's the message I'm getting.

Ms Perron: Perhaps the clerk can tell us when the photocopying of what her office has will be completed. Will that be within the next hour or so?

Clerk of the Committee: I would hope so, yes.

Mr Grandmaître: You hope so?

The Chair: Just as a reminder, the clerk operates as efficiently as our members operate, so that had we had these amendments very early, we would have been able to put this whole package together for everybody in time. That didn't happen.

Mr Allan K. McLean (Simcoe East): I find this rather odd. I've been around here for a year or two and I've been in many committees when we've dealt with resolutions and amendments and various bills. It's usually the ministry that's responsible when we're having hearings to make sure that the amendments are prepared in good time so that the opposition members can get the copies. Then they make their amendments based on what they feel has been left out by the government or any changes they feel they should make.

I've asked many times during the committee hearings if we could have a look at some of the amendments. I counted the amendments this morning. There are so far 102 government motions for amendment, totally unheard of in any piece of legislation I've ever been involved in. For us to come in here today and deal with these amendments clause by clause when the government hasn't got all its amendments in yet, I find totally unacceptable. I just don't know how you can proceed when you haven't got them in order. When you do bills, you start clause-by-clause from clause 1. You don't start at 5 or 10 and go back; you start at 1 and go forward.

I think you're going to adjourn for the rest of the afternoon and we'll have to go back and deal with them in an orderly fashion somehow. But the government has got to get its amendments in to us.

Mr Hayes: There are a couple of amendments, and of

course when we met with the Liberal members this morning, we took those. We also took our amendments at 10:30 and gave them to the Conservatives.

One of the amendments deals with the city of Mississauga in regard to the parkland in lieu, and we have indicated that we certainly are going to take care of that. That will satisfy Mississauga and other municipalities. Another one deals with septic tanks. Of course everyone knows that's a tough one to deal with and that is being dealt with right now. Hopefully, we'll have an amendment for that particular one. That's being dealt with by cabinet, because that, as I think all the members know, is quite a controversial issue. We're hoping we can come up with a satisfactory amendment there. A third one deals with really technical matters, more housekeeping than anything, and those are the ones that will be coming forward.

I was going to request, Mr Chair, that at least we can deal with 10 to 20 items here today, because we do have the amendments to deal with those. It would give all three parties a chance to review them and make comments. After all, you can talk about 100 amendments or whatever, but we're not going to get through 100 amendments today. If we can get through even 10 to 20, I would suggest that we have an hour to deal with that, if the committee agrees.

The other thing is, if we're sitting here talking about taking another day, I don't know what that does for the mandate and the hours that this committee has. If this committee wants to agree that we meet until Thursday and finish up on Thursday and if it wants to adjourn for the whole day, then I think we can accommodate that.

The Chair: Can I propose that one of you make a motion to deal with how we proceed for today? Otherwise we'll simply be discussing it without any sense of what we're going to do. Does somebody have a motion?

Mr Jim Wiseman (Durham West): I would move that we proceed with clause-by-clause and begin.

The Chair: That is a motion. Mr Hayes had proposed something rather different.

Mr Wiseman: I'll wait for Mr Hayes.

Mr Curling: I'll make the motion.

The Chair: Mr Wiseman, did you make a motion or did you withdraw it?

Mr Wiseman: I still want to make a couple of comments before I make any motion. I was on the list.

Mr Curling: No. You make a motion and then debate it.

The Chair: So you're withdrawing your motion, correct?

Mr Wiseman: Sure. I'll withdraw.

The Chair: Mr Curling, you have a motion?

Mr Curling: I would say that considering the government is not ready with its total amendments, we postpone until tomorrow or such time as they get themselves organized.

1420

The Chair: All right. Discussion on that motion?

Mr Hayes: Mr Chair, I don't think that is really fair in what the member is saying. We've had our amendments together. They were given to the clerk and the members had received them more than two hours prior to the meeting. What we're seeing here today is there are a couple of items that concern all members and which we're dealing with and we will come to satisfactory amendments I'm sure on these two particular issues.

I can't make a motion, but I would—

The Chair: No, that's the motion.

Mr Curling: Mr Chairman, what's the procedure? Is he speaking to my motion?

The Chair: He was speaking to yours. We will be voting on your motion first before we consider anything else. Mr McLean, do you have—

Mr Anthony Perruzza (Downsview): Can we have—

The Chair: Hold on, Mr Perruzza. Mr McLean?

Mr McLean: I want to ask the parliamentary assistant what section of the act pertains to septic tanks.

The Chair: I'm sorry. We have a motion before us.

Mr Curling: I've put a motion forward. Will you allow me speak to it first?

Mr Hayes: No.

The Chair: Mr Curling, I thought you had spoken to it. Do you want to continue speaking to the motion? If so, please hold on until others have spoken and we'll come back to you.

Mr David Johnson (Don Mills): I'll speak to the motion.

Mr Curling: So I don't get a chance to speak.

The Chair: We'll come back.

Mr David Johnson: I don't know what the exact requirements are—maybe it's hit and miss—but the motion that Mr Curling has put forward is that we give the clerk's department an opportunity to get all of the motions in place. I sympathize with the clerk's department, because the motions are obviously coming from all quarters fast and furious and we just heard from the parliamentary assistant that the clerk is not even in possession of all the amendments that the government intends to put forward.

If we vote against Mr Curling's motion and proceed today, my guess is we're going to be proceeding in the absence of quite a number of the amendments and I don't think that's going to get this committee off to a good start. I know the government members are concerned about getting this through and dealing with 100 or so—I don't know how many amendments we're going to end up with. If this is half, we're probably going to end up with over 200 amendments.

I would suggest that we'd be well advised today to make sure we have a complete list of all the amendments. Then the members will have an opportunity presumably to look at them tonight and get started tomorrow morning with everything in tow, so we're not coming back over things because amendments are coming back in—the septic tank issue, for example, we don't have that amendment and we go back through it a second time. I think

it's really imperative that we have all the motions. That's why I think Mr Curling's suggestion is a good one.

The Chair: Mr Perruzza, did you want to clarify something or have something clarified?

Mr Perruzza: The only clarification I wanted was, I know the suggestion is that we break for an hour and then come back, but—

The Chair: No, the motion before us is to adjourn for the day.

Mr Perruzza: Okay, but the opinion of the parliamentary assistant is that the suggestion may be, and obviously that's important for us in terms of direction, at least the government side, if we're going to get those amendments and they're going to be photocopied, then it's worthwhile coming back, but if we're not going to get them photocopied, please don't send us away for an hour and ask us to come back in an hour and say we're going to go away for another hour again, because that's problematic.

Mr Hayes: I've got a point I think would be helpful to the committee. The amendments that the government is going to be presenting that aren't here right now do not affect any piece of this legislation.

Interjections.

Mr Hayes: Hold on, hold on. Wait a minute. Let me finish, please. They don't affect any piece of this legislation until we get up to section 42 of the act, so if we had an hour—I'm sorry, I don't want to—

The Chair: I understand that. That's one part of the whole procedural matter. Mr Perruzza was saying, are we likely to have all of the other amendments that are being photocopied ready if we break for 45 minutes from now to an hour? We think we might, so that's the other part. So there are two different issues. Mr Wiseman, on that motion.

Mr Wiseman: I'd like to make a couple of comments. It's not unusual, in all the hearings I've been in, to have amendments coming in later. Also, it's not unusual for amendments to be drafted right on the floor of the committee. When we were doing the Credit Unions and Caisses Populaires Act, we actually drafted amendments in response to all three parties, so it's not really a very good reason for us to adjourn this committee.

I believe that we have a lot of work that we can do on this bill as it stands. There's nothing unusual about having amendments coming throughout the process of a bill, so this is not a good reason to waste the efforts of this day and adjourn early. I would say that I would like to get on with this bill. Let's start and let's get moving through it.

It's also not unusual for a committee to decide to stand down clauses and come back, so for the opposition to be saying that they want to read through everything before they can go on, I don't know why they're saying that. I think we should just not waste the taxpayers' money and get going on this bill.

The Chair: Before I take other speakers, I just want to check to see whether the other half of the documentation is here. Ms Bryce, is that the other third or other half possibly?

Clerk of the Committee: The second half.

The Chair: Another half.

Clerk of the Committee: Both sets, right.

The Chair: I see. We now have in front of us the other half of the documentation that we were looking for. Knowing that, further discussion?

Mr Drummond White (Durham Centre): Mr Chair, I want to thank you for allowing me to speak on this issue. Obviously we have a number of amendments that address concerns from all political parties and many of the groups that came before us. I think it's incumbent upon us as legislators to get on with our job. These are very expensive proceedings and for us to adjourn for the day when we have this mammoth task in front of us I don't think would be responsible.

We understand from the parliamentary assistant there's a substantial amount that could be accomplished before we get to any sections that would have to be stood down. The possibility of getting to section 42 this afternoon is probably somewhat hopeful in any case. I would suggest that we defeat the motion put forth and that we get on with the business we were elected to do.

Mr Curling: The reason I put this motion forward is exactly as to what's happening right now. Yes, you did see the Liberal Party to present some of your amendments, incomplete as they were, and understanding that some would follow, but when you arrived here today the government did not have the rest of the amendments. As you can see, this is even thicker than the one that we have before us, so there are a considerable amount of amendments.

When one speaks about wasting time, this committee starts at 2 o'clock and ends around 6 o'clock. I feel we can progress much quicker if we are organized, knowing exactly some of the amendments that we have had, if we can correlate them in a proper form.

I think sitting here trying to do this would be almost counterproductive, because we would not be able to follow this thing in sequence. I would say to you that it would be better for us to adjourn for today, and tomorrow morning when we start our committee, we'll start with something prepared and have some sort of structure to it.

The government is not ready. We know it's a large bill. Mr Wiseman and Mr White over there are saying that we have a herculean task before us. It's the process of ramming this omnibus bill through. We would like to see detail to detail, looking at each of these sections where the amendments are. It takes some time to digest these legal terms and to see that we don't duplicate them as we go along. I'm saying to you, let us get this thing together and tomorrow morning when we start we'll be in a better position to make sense of all of this.

The Chair: My sense is we're ready for the vote, but Mr Hayes, do you still want to speak to that motion?

Mr Hayes: Yes. All we're saying here is that we just want enough time to review what will be discussed today, and we want an hour to do that. That's why I cannot support the motion, because I think it would take an hour to do that. Then of course when the meeting adjourns

today, it'll give staff and members time to review the rest of them prior to tomorrow's meeting.

1430

Mr Perruzza: If I could amend Mr Curling's motion, I would move an amendment that we shorten the time. If you're going to rule that out of order, then what I would do is—

The Chair: I would say that it would be contrary to and I would be asking for a new motion.

Mr Perruzza: Okay. So if his motion should lose, then I'd be ready to make a new motion.

The Chair: Very well. I think we're ready for the vote then. All in favour of Mr Curling's motion? Opposed? That is defeated. I'm prepared to accept other motions. Mr Perruzza.

Mr Perruzza: I move that we recess until 4 o'clock, at which time we come back and do the clause-by-clause.

The Chair: At 4 o'clock.

Mr Perruzza: It's an hour and a half.

The Chair: It's 2:30.

Mr Perruzza: Do you want to do 3:30?

The Chair: If that's your motion, we'll have a discussion.

Mr Perruzza: At 4 o'clock, yes.

The Chair: Okay. Discussion on that motion? Anyone? There's no discussion on this motion?

Mr McLean: I'd like to discuss this motion.

Mr Perruzza: Okay, 3:30.

The Chair: Mr Perruzza's recommending that we recess for one hour. Discussion on that motion?

Mr McLean: I would like to say that we don't know what's in these amendments. Are we going to sit here and go through these 200 and some pages of things to look at? Mr Curling's so right. As I suggested before the meeting, we should adjourn, go back to our caucuses and our staff and sit down and go through these things. I haven't had a chance to. You haven't. I don't know who has. The proper thing to do is just to go back and have a look at them. If you want to sit here, we can go on all afternoon and I'll guarantee you you'll get nothing done. You'll have nothing accomplished.

Mr Curling: May I ask a question to you, Mr Chairman? Have you seen his amendments before?

The Chair: No. But to answer the question, I recall the last meeting I chaired where I said to people, "Please hand in your amendments as early as possible in order to give us all an opportunity, the clerk primarily, to collate and to order these bills. That would give us enough time therefore to have all the documentation here and in advance to give the members an opportunity to read them." That didn't happen because different caucuses brought them at different times, not allowing us to do what some of you are saying we should have done. So without naming who delivered at what point, I say this so that you have that as background. But I haven't seen them, no.

Mr Curling: You're saying then you did not see them before. As the Chair, while you're trying to justify your

position, I'm just saying you should have all the documents before you as the Chair in order to have proper proceedings going on. You said you did not see them before. We don't have the kind of staff that you have to get yourself organized and we're just basically asking, for the efficiency of the legislation, to allow us that time and you're saying, "Oh, you didn't bring yours in before" and all that.

The Chair: No, Mr Curling, I'm saying as the Chair that if the committee is prepared with this motion to move ahead, I as the Chair am ready to go ahead. If it's defeated, the Chair will go along with the committee's wishes.

Mr Curling: I didn't ask for your explanation at the time and I'm just responding to your explanation. You tell me the reason why and I'm saying the bottom line is we didn't have it. We're saying, for efficiency, allow us that time in order to get ourselves organized too. You are behaving like you're trying to deny this and then bring back democracy and say you'll go with what will happen in the vote.

The Chair: No, Mr Curling. There's a motion before us. That's what we're dealing with, not my feelings on the matter.

Mr Curling: You're the one explaining that. I'm speaking to the motion.

The Chair: You're asking me a question, however. Go ahead.

Mr Curling: I'm just saying to you that it is required of us, myself and my colleague, to get some time to get ourselves organized to prepare this and present it in the proper form.

The Chair: I understand that. Are we ready for the vote?

Mr David Johnson: Just a question, through you, Mr Chairman, or to you and maybe the clerk can assist. Do we now have all of the amendments before us in the two piles?

Clerk of the Committee: All the amendments that were filed with my office are in that pile.

Mr David Johnson: Are you aware from any source that there are other amendments that are coming that you do not have in your possession yet?

Clerk of the Committee: Other than the committee discussions, no.

Mr David Johnson: When you say the committee discussions, you mean—

The Chair: The comments made by Mr Hayes earlier on. Correct.

Mr David Johnson: Mr Hayes mentioned, I think, three areas. Are they now in this pile?

Mr Hayes: No.

Mr David Johnson: They're still not in the pile?

Mr Hayes: No, they're not.

Mr David Johnson: And they involve—

Mr Hayes: They're well beyond. They're way into the bill, like I said. None of those issues come up before 42. And I think, Mr Chair, in all fairness—

The Chair: I'm sorry, Mr Hayes. Mr Johnson has the floor.

Mr Hayes: Oh, I'm sorry, go ahead.

Mr David Johnson: Well, I guess the problem is, you know, we can say—I'm just thinking of the hour. Will we have those amendments then, is the next question. Will we have those amendments by the end of the hour?

The Chair: Mr Hayes, that's a question directed to you and your staff.

Mr Hayes: No, we won't.

Mr David Johnson: We won't have those amendments. In that case, let me ask you this: When will we have those amendments?

Mr Hayes: You'll have those Tuesday or Wednesday at the latest.

Mr David Johnson: Tuesday or Wednesday. So if we were to break until 4:00 or 4:30 as was the original motion—

The Chair: One hour was the motion.

Mr David Johnson: But the original motion that was put which was ignored, we wouldn't have them in that time frame, for example, if we waited a little longer?

Mr Hayes: No, you won't, and as I said earlier, Mr Chair, we won't get that far into this legislation to even deal with those motions.

Mr David Johnson: The problem with that, in looking at the motion that's before us, is that the parliamentary assistant has assured us that we won't get that far, but a lot of these motions and amendments are intertwined to some degree.

The Chair: This is true, although Mr Hayes makes the comment that those amendments do not necessarily link to any of the other amendments that we have before us. Is that correct?

Mr Hayes: That's right.

Mr David Johnson: And I would agree with what you've just said, do not necessarily link with that.

The Chair: Let me just ask the staff clearly. Do they link with any other amendment that is before us, what we may be receiving in a day or two? They stand on their own? Okay.

Mr David Johnson: Well, I guess that's in the eye of the beholder. We'll have to see.

I hear chuckles all the way around the room. Obviously there's different interpretations on whether they link or not, and I guess if the government's intent on blasting ahead, then we will find out. I'm still relatively new here yet, and it would seem to make common sense that you'd have all of the amendments so that when you're looking at the bill, you can look at them in the context of all of the amendments, but obviously that's not the case.

The Chair: I understand what you're saying. Mr Wiseman was correct. We've dealt with many bills in the past, and all of the members can confirm this, where not all of the amendments are before us. Yes, people will say it's deplorable, but it does happen regularly that there may be some amendments that are not before us, that are introduced later on.

Mr David Johnson: I understand, Mr Chairman, that situations come up from time to time—I think Mr Wiseman referred to Bill 134, which is primarily dealing with the credit unions—and there are things that come up which you have to deal with on the spot, and all three parties concur on that.

But in terms of knowing that amendments are coming forward, and having made up our minds, let's say, or the government having made up its mind that amendments are coming forward, would it not be practice that all the amendments would be here before we start? That's question number one.

Question number two is, is there any standard of conduct that governs committees, that speaks to when the amendments should be forward? Perhaps the clerk could assist us in that regard.

Clerk of the Committee: To answer your first question about amendments being in, the only requirement right now about amendments and when they're tabled in the standing order says that they may be submitted two hours prior to the meeting commencing, time permitting. So it's not a "shall," it's a "may."

Mr David Johnson: It's a "may." Okay, and that's the only governing feature?

Clerk of the Committee: That's right.

The Chair: Are we ready to vote on the motion? I'll call the question. All in favour of Mr Perruzza's motion—at the time it was for 3:30—that we recess for an hour? Is that still the case? All in favour of that motion? Opposed? I think that motion is defeated.

Mr David Johnson: I move then, Mr Chairman, that we defer consideration—how about we adjourn until 6 o'clock?

The Chair: You're moving an adjournment motion again.

Interjection: No, we'll be back at 6.

The Chair: We'll be back at 6. Can we have a serious motion before this committee, please? Mr McLean.

Mr McLean: I'll make a motion, Mr Chair, that this committee adjourn until 10 o'clock tomorrow morning in order that the members will have the opportunity to review the amendments that have been put on the table this afternoon.

The Chair: All right. This motion was much similar to what Mr Curling had proposed earlier. Let's have a discussion on it.

Mr White: Same motion.

Ms Christel Haeck (St Catharines-Brock): Let's just vote on it.

The Chair: I'm sorry. We don't have a sense of what we want to do, Mr White, so we need to have direction. There's a motion before us.

Mr Hayes: The maker of the motion and the other two parties agree that after they've had considerable length of time to review the amendments, all amendments, and of course that's really supposed to be in the essence of streamlining things and knowing fully what you're dealing with, they would work hard together and

we would wrap this up on Thursday as our schedule is laid out.

Mr Curling: Is this a motion or a lecture?

Mr Hayes: No, no. You give the lectures. I never made a motion. I'm dealing with the motion, talking to the motion.

Mr Grandmaitre: Shall we deal, Mr Chair, as with other bills, if we're supposed to adjourn on Thursday at 6 o'clock, that all remaining amendments are deemed to be passed?

The Chair: Ms Bryce, you can comment on that.

Clerk of the Committee: Anything that the committee does not finish within the parameters that the House leaders have authorized to meet, the committee will pick up when the House returns after October 31 at our

regular meeting days of Monday and Tuesday.

Mr David Johnson: What is authorized at this point?

Clerk of the Committee: The committee has been authorized to meet until Thursday of this week.

Mr David Johnson: So that'd be Thursday at 6 o'clock.

The Chair: If we don't finish by Thursday, we'll resume when the Legislature sits again. Further discussion? Ready for the vote?

Mr Curling: Could I know what I'm voting on?

The Chair: We're voting for adjournment. All in favour of the motion? Opposed? This committee is adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 1442.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Tilson, David (Dufferin-Peel PC)

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*Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy

Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Johnson, David (Don Mills PC) for Mr Harnick

McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson

Perruzza, Anthony (Downsview ND) for Mr Gary Wilson

White, Drummond (Durham Centre ND) for Mr Bisson

Wiseman, Jim (Durham West/-Ouest ND) for Ms Harrington

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister

Perron, Linda, solicitor, corporate resources management

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel

GR201
XC14
-C77

Communauté
Publique



J-78

J-78

ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 27 September 1994

Journal des débats (Hansard)

Mardi 27 septembre 1994

**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

Planning and Municipal Statute Law
Amendment Act, 1994

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

Chair: Rosario Marchese
Clerk: Donna Bryce

Président : Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Tuesday 27 September 1994

Mardi 27 septembre 1994

*The committee met at 1013 in committee room 2.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): I'd like to call the meeting to order. We're into clause-by-clause consideration of Bill 163. Just as a comment to the committee, we're ready to deal with sections 1 and 2, but I would suggest that we defer sections 1 and 2 because they deal with schedule A and schedule B, which are at the back of the bill and have yet to be considered. I suggest we defer those two matters and move quickly into section 3. We'll ask the government member to—

Interjections.

The Chair: Are we going just a tad too fast?

Mr Allan K. McLean (Simcoe East): No, great, but I want just one clarification. I want the parliamentary assistant to give me the answer to a very simple question. You were asked this morning on that news conference how many amendments you had. I didn't quite get the answer. How many was it said there was?

Mr Pat Hayes (Essex-Kent): It was said a lot. I think they said there were 50-some amendments.

Mr McLean: That's 50-some amendments there?

Mr Hayes: Do you want to include all of the Liberals' and Conservatives' that are duplicated?

Mr McLean: I think the question was asked, how many amendments were there to the bill?

Mr Hayes: Do we know exactly how many amendments we have to the bill? Maybe the clerk can help us. I want you to have the right answer there, Mr McLean.

The Chair: Hold on, please. Ms Bryce, do we know how many amendments the government has introduced?

Clerk of the Committee (Ms Donna Bryce): Yesterday I believe there were about 102 filed with my office.

The Chair: Okay, Mr McLean? Very well. Moving on, subsection 3(2). Mr Hayes, do you want to speak to it or introduce it or read it for the record?

Mr Hayes: We have an amendment. You prefer us to read it all into the record?

The Chair: Yes.

Mr Hayes: I move that subsection 3(2) of the bill be struck out and the following substituted:

“(2) Section 1 of the act is amended by adding the following definitions:

“‘first nation’ means a band as defined in the Indian Act (Canada);

“‘public body’ means a municipality, a local board, a ministry, department, board, commission, agency or official of a provincial or federal government or a first nation; (‘organisme public’)”

Mr David Johnson (Don Mills): Can the parliamentary assistant clarify what this does? As I understand it, the change would make Indian bands public bodies.

Mr Hayes: That's exactly what it does.

Mr David Johnson: It would provide wider rights of appeal. Could you be more specific in terms of what those wider rights of appeal would be, what rights of appeal they would have today and what rights of appeal would exist under this?

Mr Hayes: The bill proposes to deem an Indian band to be a person for the purposes of the Planning Act. The Ontario Native Affairs Secretariat and the Six Nations expressed concern with this definition. It would provide wider rights of appeal and it recognizes that first nation is more like a public agency than a person.

Mr David Johnson: I see that, but what I'm asking specifically, could you give us some examples of what those wider rights of appeal would be?

Mr Hayes: I'm going to refer that to staff.

Mr Philip McKinstry: In the Planning Act right now, the public bodies have some slightly wider rights of appeal. For example, under appealing rights of plans of subdivision conditions, there's no time limit on a public body, whereas there's a time limit on a private applicant. Therefore, the Indian band would be able to use the same kind of time frame as the public body.

Mr David Johnson: I'm just following up on that. I thought that some of the comments this morning from the minister and the parliamentary assistant indicated that public bodies were going to have to essentially follow the same time line and field procedures that individuals would have to follow.

Mr Hayes: That's correct.

Mr David Johnson: If that's correct then—

Mr McKinstry: That's true, but that's a slightly different issue in the sense that what happens there is we were saying that private individuals could be dismissed at the OMB or by the approval authority if they didn't get involved early and public bodies did not have to follow that rule. We were very keen to demonstrate that in fact everybody should be involved early in the process. Therefore, that will be changed by these motions to say that public bodies have to be involved early or they could be dismissed.

1020

Mr David Johnson: I'm just trying to get a handle on what this really means. It means that the Indian bands then would have a longer period to appeal subdivision approval. Is that what it means?

Mr McKinstry: Just to go back to what it really means, it's that first nations will have to receive notice from municipalities, and that's not so under the current Planning Act. Therefore, they were deemed initially a person; now we're just changing that to a public body. This is actually a fairly minor change and it does also recognize the Statement of Political Relationship, which indicates that Indian bands and the government should deal on a government-to-government basis and therefore we are giving them that additional.

Mr Alvin Curling (Scarborough North): I know they had expressed some concern when we were in Niagara Falls. Has this change come about with consultation and, I would want to say, agreement with the bands there, the first nation people?

Mr McKinstry: We discussed this with the Ontario Native Affairs Secretariat and it was clear to us from the hearings that they wanted some wider rights of appeal. The public bodies would be satisfactory to them.

Mr Curling: But there was no further consultation or meetings with the bands themselves.

Mr McKinstry: No, there were not.

Mr Curling: So we're not quite sure whether or not—

Ms Linda Perron: Perhaps I can respond to that question. My name is Linda Perron, counsel, Municipal Affairs. I did speak with the solicitor for the Six Nations band after they made their presentation at standing committee and set out the motion that we were proposing, and it was satisfactory to him.

It clearly addresses on point the concern raised by the band at the standing committee in Niagara Falls, wherein the current bill deems them to be persons for the purpose of the act. We have changed the wording to refer to them as a first nation and in addition to include them in our list of public bodies in the definitions section.

Mr Curling: They had expressed some concerns, as you know, even of relationship, not only how they are addressed in the legislation but what kind of relation they have. They didn't want to be seen as someone who was just consulted and then that's it; in other words, as you said, to be treated as a nation. This description here

would give them that kind of recognition. Is that it?

Mr McKinstry: That's correct.

Ms Perron: What it does is the use of the term "first nation" is more consistent with the wording that is used in the Statement of Political Relationship with the first nations in Ontario. Once they're identified as a public body within the Planning Act, then our regulation-making powers will authorize us to identify a first nation on a reserve as a body that's entitled to receive notice from a municipality or other types of approval bodies when dealing with applications and processes under the Planning Act.

Mr Curling: This is what they're concerned about, not only about receiving notice, but would they be consulted if any decisions are going to be made? I don't want to call it negotiation, but—

Ms Perron: After notice is received, then the approval body has to analyse and deal with the comments or objections provided by public bodies and persons in general, so that would be a natural process that would occur afterwards.

Mr David Johnson: I have just one other question. With this amendment then, that the first nation bands would be considered a public body and the requirement apparently that's coming in that ministries and agencies etc must "be consistent with" the policies, would that apply to the first nations bands as well, their comments? If they're deemed to be a public body, my sense now is that all public bodies, in commenting on planning matters, must be consistent with the policies. Is that right? If all the amendments go through, does that apply to first nation bands as well?

Ms Perron: No, the scope of the motion that we're proposing to add subsection 3(6) to the bill would not apply to first nations.

Mr David Johnson: It applies to all other what I'd call public institutions: the Ministry of Natural Resources, Ministry of Environment etc.

Ms Perron: Commissions or agencies and Ontario Hydro.

Mr David Johnson: It applies to all public agencies and bodies, but it doesn't apply to this public body. Is this the only "public body" that that amendment would not apply to?

Ms Perron: Yes, I would think so.

Mr David Johnson: Did you give any thought to that? Does that concern you?

Mr McKinstry: I guess one way of looking at that is the ministry's agencies and the like are bound as they move into the planning application framework under this act. First nations make comments on this to municipalities, but they don't make decisions under this act. Therefore, it is the ministries that are bound, because they in fact are making comments, submissions, giving testimony and things like that under the act.

Mr David Johnson: So that was an intended course of action, then, rather than an oversight.

Mr McKinstry: That's right, yes.

The Chair: Any other comments? Seeing no other

speakers, all in favour of this amendment? Opposed? That carries.

Mr Hayes: I move that subsection 3(3) of the bill, subsection 1(2) of the Planning Act, be struck out.

This is really a consequential amendment to deal with the previous.

The Chair: All in favour? Opposed? That carries.

The whole section, then. All in favour of section 3 as amended? Opposed? That carries.

Mr McLean: I move that clause 1.1(a) of the Planning Act, as set out in section 4 of the bill, be amended by striking out "sustainable economic development" in the first and second lines.

Mr David Johnson: Mr Chair, can I ask through you to either the parliamentary assistant or the staff that are present if there is a definition of sustainable economic development, if there's anywhere that I can look and find such a definition?

Mr McKinstry: The act does not contain a definition of sustainable economic development. However, our view is at the policy level that we're attempting to promote development in Ontario, we're attempting to promote it in terms of sound, healthy communities, in terms of a healthy environment. The government's view is that "sustainable economic development" means development that recognizes that economic development is important but also that the environment is important.

Mr David Johnson: I think we would all support development that assists the economy and is sensitive to the environment. The parliamentary assistant and the minister this morning made it clear that they wish to cut through red tape and they wish to put in place planning procedures that encourage a speedy response to economic development proposals.

The concern is, notwithstanding our concern for the environment etc, if phrases like this are used that are not defined, then there is a great possibility that different people will apply different definitions. For example, somebody said to me if a proposal comes forward that doesn't have solar heating in it, if you use electrical heating or gas heating or something like that, is that sustainable economic development? Perhaps a development should be compelled to use solar heating, which I guess, without thinking too far about it, may be considered to be sustainable.

There's a concern, I know, in some quarters, and some people have made deputations—I think the home builders may be one—that clauses like this can be used by people who are opposed to a development. They can use this to hold up a development, slow it down and apply more red tape around the whole proposal.

1030

I wonder if I could get some comment on that. Perhaps that hasn't happened up to this time, but it certainly is a phrase that will be interpreted in many different directions by many different people. Perhaps I could get a comment on that. I'm concerned and certainly the home builders are concerned that it could be used to slow down development.

Mr McKinstry: Yes, we have thought long and hard about the effect of the act on development in Ontario and we think that we provide processes that will actually speed up development. In terms of how the purpose section will interrelate with other processes in the act, I draw your attention to the fact that there is an extensive comprehensive set of policy statements.

The policy statements are really the things that decision-makers will be looking to under the new act to make their decisions. The purpose section of the act sets a framework for how the act operates. The policies will be the things that drive decisions under the act.

Mr David Johnson: I understand all that but I guess I'm getting down a little bit closer to the road. If there was opposition to a particular development, let's say, on a basis that this subdivision was not sustainable, it didn't use the right fuel source—let's take the case in point that the buildings were not heated by some sort of solar mechanism—would the ministry consider that to be in violation of the purpose of the act, that the act is to promote sustainable economic development?

Mr McKinstry: Again, to go back to the wording, it talks about promoting sustainable economic development and then the policies talk about what kind of development, what the parameters of development are, and the policies don't address solar heating. So my view would be that you could not deny an application for a minor issue like that where it was consistent with the policies. Again, I would say that the purpose of the act is to set the framework. The policies are the things that make the decisions.

Mr David Johnson: Could you give us some idea of what the ministry would consider to be a violation of sustainable economic development in a specific case—the development of a subdivision, let's say—that would violate the purpose of the act, that you should be promoting sustainable economic development? Can you give me a specific instance where the ministry would consider that to be violated?

Mr McKinstry: What we're saying here is we want to promote development that won't fail, that we're really talking about how "sustainable" gets defined. But again I can't stress too much that in fact it's the policies we have to look to. The purpose of the act simply sets out what the act's purpose is. It doesn't indicate to the decision-makers the things they have to take into account. This is talking about what our purpose in setting out these policies is, what the framework for the policies is.

Mr David Johnson: Do you think that this will be interpreted in different ways in different parts of the province of Ontario?

Mr McKinstry: The policies will certainly have scope to be interpreted in different ways in different parts of Ontario. That is our intent.

Ms Christel Haeck (St Catharines-Brock): I applaud Mr Johnson for his amendment. There are parts of it that I can support, but the part that I can't is the total removal of sustainable development. I think, picking up some of the comments of the deputants that came forward, they had the concern about strictly focusing on economic.

I'm thinking specifically of the CELA, Canadian Environmental Law Association, deputation. Their focus was, mentioning the Brundtland report, that if this is going to be altered, they would prefer that the word "economic" were deleted and that it read "to promote sustainable development," which would be much more environmentally friendly than strictly focusing on the economy and how that might drive development into areas that might not be appropriate for it.

That's my simple comment on Mr Johnson's amendment.

The Chair: Mr McLean actually made that amendment.

Ms Haeck: Oh, I'm sorry.

Mr David Winninger (London South): My point, which I'll probably put in the form of a question, was quite similar to my colleague Ms Haeck's. We heard earlier from the Social Planning Council of Metropolitan Toronto that you don't necessarily need the word "economic" in the phrase "sustainable development." Now most of us know what sustainable development means and, as Christel Haeck pointed out, it gained more popular coinage as a result of the Brundtland report, Our Common Future.

But if sustainable development means physical, cultural, economic and social wellbeing, then we place economic factors on a same-level playing field with other factors such as physical, cultural and social. The point that was made earlier is: Why do we need to highlight the economic component in sustainable development when sustainable development already comports some notion of economic development that also accords with our social, cultural and physical concerns?

My question to the ministry was going to be this: Do you agree that sustainable development does include the economy and economic considerations as a factor? If so, can we dispense with the use of the term "economic" and, if not, what's the rationale for keeping it in there?

Mr McKinstry: I'll start with the last part of the question first. The government was very keen to make it clear to people using the planning process that economic development was important. It was important in a healthy environment, that's certainly key, but that economic development was important. In terms of the phrase "sustainable economic development" that would be why it's there: to demonstrate that the government in passing this legislation wants both to protect the environment but also to promote economic development.

Mr Winninger: If that's the answer then, why would we mention economic and not environmental as qualifiers for the term "sustainable development"? Why is it necessary to have one term but not the other?

Mr McKinstry: We have placed, actually, both concepts in that clause. We've talked about sustainable economic development, and I believe it says, "in a healthy natural environment within the policy and by the means provided under this act." So we've tried to incorporate both those concepts into the first clause of the purpose.

Mr Winninger: I think I understand your answer. I don't necessarily agree with it, but I understand it.

Mr David Johnson: I think that's the point. Mr Winninger started off his questioning saying, "We all know what we mean by sustainable economic development," and then he made it perfectly clear that none of us has a clue what this is about. Nobody knows what sustainable economic development means. If somebody does, please speak up and tell me what it means.

Interjections.

The Chair: Order, please.

Mr David Johnson: Jim is going to tell me. I hope he does. See that's the problem: We should not—

Interjections.

The Chair: Sorry, Mr Johnson, hold on. I can't hear a word. Order, please.

Mr David Johnson: We should not be putting phrases into a bill in the legislation that are undefined and that obviously there's a great variance of opinion as to what they mean. They frankly should be defined. If they're not defined, then they are going to be a source of friction. There are going to be many different interpretations and obviously people are going to use them to further their own goals on any particular planning proposal, whatever their goals will be.

This is not going to lead to a speedy resolution of planning issues; this is going to be, unfortunately, another impediment for planners and councils and people who are hoping to build and bring economic development. It's going to be another impediment that they have to deal with, and I simply point that out that obviously from the discussion, people don't know what to do.

1040

Mr Curling: I just want to echo many of the things I've been hearing when we go to hearings in regard to the same point about sustained economic development. Some of the things that Mr Johnson was saying I carried further, that when we're making legislation and the more words we put in that are ill defined or unable to be defined, what it has done is lawyers have a field day on this and challenges will be there.

The main purpose, I gather, is that we're going to streamline and make this thing more efficient, and to be held up again about an ill-defined word, I don't call it streamlining. I thought that the government would have responded, seeing that they're trying to rewrite the entire legislation all over again, that this one would have been taken into consideration.

I have a feeling that since we can't get a definition of sustainable economic development, we would be much better off deleting it. I remember earlier on in one of the presentations that the request was to refer to this as a "sustainable development" rather than a "sustainable economic development." I hoped really that the government would have responded by amending this. I still, with the explanation I'm hearing from the ministry and from the parliamentary assistant, don't understand what sustainable economic development is.

I just wondered if somehow some definition could be given to satisfy one that there's no doubt in people's minds. I heard what the ministry said and I hope I'm right in interpreting what you're saying, that it is done;

that it can be defined in different areas for what it really means relevant to that community. I don't know how, if that's a dangerous thing or not, because each person will then say that what it means to them in there may not mean even the same neighbourhood, and there's a long debate that would happen in the fact that things dragged out in courts or maybe at the OMB. I would appeal to you to take another look at it, maybe stand this one down and take another look and come back at it later on.

The Chair: I see no other speakers. Mr Hayes, did you want to comment on the issue of standing down this motion?

Mr Hayes: No, we're not going to stand down the motion, Mr Chair.

Mr McLean: What we have just discussed proves the point that "sustainable economic development" should be taken out. There's no doubt in my mind and I think the members should vote for this motion.

The Chair: Okay. We're ready for the vote. All in favour of the amendment moved by Mr McLean? Opposed? The amendment is defeated.

Liberal amendment, Mr Grandmaître.

Mr Bernard Grandmaître (Ottawa East): Section 4 of the bill, clause 1.1(b) of the Planning Act: I move that clause 1.1(b) of the Planning Act as set out in section 4 of the bill be amended by adding at the end "which respects the decision-making authority and accountability of municipal councils and the economic interests of participants."

The Chair: Speaking to that, Mr Grandmaître?

Mr Grandmaître: Good question. I left my notes at the office.

The Chair: But you could say self-explanatory if you like.

Mr Grandmaître: What we're basically saying is that if we want the decision-making process to work at the municipal level, we have to give these councils better tools to work with and be more accountable. That's all I have. Do you have more notes, Alvin?

Mr Curling: We can come around again.

The Chair: Other speakers, Mr Wiseman and then Mr Johnson.

Mr Jim Wiseman (Durham West): I don't think I'll be supporting this amendment for a number of reasons. If you want to talk about ambiguity, you've got it here. Even the mover of this motion off the cuff was having a tad of difficulty explaining what it meant.

The phrase that leaves me wondering what it really means is "the economic interests of participants." If it were left to me to interpret that, it would seem to me that it would say to councils that this is an overriding clause that would allow the councils to disregard the other sections of the act with respect to the environment and the sustainability portions of what this section of the bill is trying to do.

The phrase, "accountability of municipal councils," I would assume is trying to reflect that councils are elected, they can do whatever they want and they are accountable only every three years. I think that is not

exactly the intent of this section of the act either; therefore, I would not like to see this kind of a phrase find its way into the act in terms of overall ambiguity and the really overriding sense that it might have on other parts of the act. I would urge all members to not support it.

Mr David Johnson: It really depends on your attitude towards planning. If your attitude towards planning in the province of Ontario is that it should be led by the provincial government, mandated by the provincial government, and the provincial government should lay out specific criteria and planning procedures and the municipalities should toe the line and should simply follow and be led by those provincial mandates and procedures, then, yes, you would vote against this amendment.

On the other hand, if you feel that planning in Ontario should be the primary responsibility of the municipalities and that the role of the province is to make broad policies but the role of the municipalities is to plan within their communities—their communities which are different municipality to municipality, Oshawa to Toronto to Thunder Bay to Ottawa, all having different kinds of situations and different planning problems—then you would acknowledge the role of municipalities in the planning system. That's all this motion is requesting.

This motion is requesting that we recognize that municipal councils play the key role in terms of accountability to the people in their community where the real planning takes place. The clause, as it is framed in the bill, reads "to provide for a land use planning system led by provincial policy." That's clause 1.1(b) in section 4. It clearly sets forward the province as leading the planning in the province of Ontario and it does not enunciate a role for municipalities.

The Association of Municipalities of Ontario, acting on behalf of its some 800 municipalities, has simply suggested this amendment, which Mr Grandmaître has enunciated, that we recognize the role of municipalities in the planning process in the province of Ontario, and indeed the economic interests of other participants, community groups.

Just to quote from AMO, they said, "A provincial policy-led planning system without a commitment to respect local accountability and decision-making authority would amount to a rigid and directive planning regime with little regard to the diversity and the unique characteristics of the hundreds of municipalities across the province."

I suggest that we wouldn't condone such a planning system. I don't think the government condones such a planning system. This is a simple amendment put forward by the Liberals, but we certainly support it. It's one that was recommended by the Association of Municipalities of Ontario. Mr Hayes said this morning that we need all-party approval and here's one we can get all-party approval on right here.

1050

Mr Winner: I think the next government amendment to section 4 of the bill does in fact recognize the role of municipalities in planning. I think that's an important acknowledgement to make there. But, at the same

time, I'm a little concerned with the rest of Mr Grandmaître's amendment, which would require the planning process to respect the economic interests of participants. I think by highlighting the term "sustainable economic development," that has already been done.

My experience in London has been an unfortunate one in the past, where the economic interests of participants always seemed to prevail. Ironically, it's Bill 75 that required the city to step back and plan for 20 years into the future and look at social, cultural, environmental and agricultural concerns in a very coordinated way for the first time.

I think the economic interests of participants has always been a very weighty consideration in municipal planning. I don't know that we need to highlight it again there, but I do see an importance in the role of municipal councils. That should be acknowledged, and I think it is in the next government amendment.

Mr Curling: I think the amendment is self-explanatory. It is very consistent with the policy that your government has put out, Mr Chairman. I'm going to read it again slowly: "which respects the decision-making authority and accountability of municipal councils and the economic interests of participants." Mr Wiseman was feeling like, "Oh, if we give away all this power, what's going to happen?"

I just want to call your attention to your empowering municipalities policy. As you indicated all along, that is chiselled in granite and cannot be moved, and here it says:

"The proposed legislation to reform the planning and development system in Ontario addresses this problem by giving municipalities greater local control over the development process. It is based on the belief that planning the development of Ontario's cities, towns and rural areas can best be accomplished by the people who live there."

The fact is that all it is saying here is that giving the municipalities and respecting as a matter of fact—it's a very easy word—"which respects the decision-making authority and accountability of municipal councils and the economic interests of participants." When you look at the entire section 4, it talks about the province and the provincial policy consistently, and this part of it just zeroes in on, to whom are we speaking and to whom are we giving that respect and authority?

We strongly believe that the people within the municipalities and those regions are able to make those decisions that will affect their lives and improve of course their wellbeing. This is what it's all about. I'm surprised that your party would say—Mr Winninger is saying: "It is implied. Just trust us. It's implied there." But it's easy here to say that it is a matter of respecting those decision-making authority bodies. I would strongly ask you to be consistent with that policy which you wrote empowering those municipalities. This motion that we have put forward is indicative of trying to conform to the policy the government has put forward there.

Mr Hayes: Of course Mr Winninger already has mentioned about the government motion, which certainly

will recognize the role of municipalities in planning by adding a new provision in clause (f) in this regard. As far as the accountability of municipal council, it's addressed through the Local Government Disclosure of Interest Act. So these things are being done. The economic interests of the participants are being dealt with in clause 1.1(a). We feel that we will be addressing this concern in the government motion.

Mr McLean: I don't think the government motion covers what we're covering here in this resolution. We heard from many participants that came before us and wanted to have input into what's happening within their communities. They made a lot of presentations with regard to how they wanted to participate, and that's what this resolution does. It adds to it.

You are only talking about the role of municipalities in planning, but here we're talking about the accountability of municipal councils and the economic interests of participants. That's what people want, to have some interest, to have some input, and I think this is the proper resolution that we should be passing.

Mr Grandmaître: A quick question to the parliamentary assistant: You just said that accountability was covered through the disclosure legislation. Can you expand on this?

Mr Hayes: Yes, it's actually dealing with the open local government meetings. It's there, and they have to be accountable, they have to be open.

Mr Grandmaître: So you're deducing that accountability means what you just said? You're saying that accountability means that it's covered under the disclosure.

Mr Hayes: Well, it is covered under there and, at the same time, I have already indicated that we are going to add a new provision. The government proposed an amendment that will certainly recognize and accomplish what is required here. Certainly the Association of Municipalities of Ontario and the Urban Development Institute have expressed these concerns and this is the route that they wanted us to take. I think we're meeting that.

Mr Grandmaître: This amendment relates to AMO and the rest of UDI and the builders' association. This is their request, so how can you say that—

Mr Hayes: All I'm saying to you is that amendments have come forward and you will find, as we go through, that we have met a lot of those concerns and we will be addressing a lot of those concerns, but we feel that our motion will cover that concern, because you have your specific wording—

Mr Grandmaître: Well, Mr Chair, can I stand down my amendment and when we come to the amendment that you're referring to that will cover this amendment, then I'll pull it. But until then let's stand it down, because now what the parliamentary assistant—

The Chair: We need unanimous consent for that.

Mr Grandmaître: What the parliamentary assistant is telling me is that it's covered elsewhere, with another amendment, and I want to see it.

Mr Hayes: You have it.

The Chair: Is there unanimous consent to stand this matter down? There is no unanimous consent, Mr Grandmaître. Mr Johnson.

1100

Mr David Johnson: I think maybe the parliamentary assistant can clarify. I sense that he's talking about two different aspects of the bill. The one aspect is number 6, I think—just let's see if he nods his head—which indicates that there's a clause that'll be put in to recognize the role of municipalities in planning; in other words, to say that, "Yes, municipalities do exist," which I must say is a very barebones sort of recognition. That's one aspect.

I think the parliamentary assistant has also indicated that there is something in the conflict-of-interest section of this bill that pertains to the accountability of municipalities. But perhaps he could clarify that, because I'm lost as well as to what the second reference is to.

Mr Hayes: It's in the disclosure of interest part; it's Bill 163. There's no amendment for that. It's already in there. Then the other one, like I said, we do have an amendment that will certainly address this.

Mr David Johnson: Just to assist us then in voting here at this point, can you point out to us where you're referring to in the conflict-of-interest section with regard to accountability?

Mr Grandmaître: What page?

Mr Hayes: On page 89, the disclosure of interest act, when we talk about pecuniary interest, item 3.

Mr David Johnson: So when you're talking about—

Mr Hayes: You're talking about disclosure, you're talking about accountability, and this certainly, if you go through the whole thing, spells it out.

Mr David Johnson: All right. I don't see that. I don't see the word "accountability" there, but you're—

Mr Hayes: I don't think you have to have the word. I mean, I think it's there. If they are disclosing, they're certainly becoming accountable, right?

Mr David Johnson: So that's how you're interpreting accountability. My suspicion is, Mr Hayes, that the municipalities are generally speaking in a planning sense and that the municipalities have accountability to the people under their jurisdiction for planning procedures. They have that because of a series of public hearings and the fact that they're very close to the people. I think that's what AMO intended, that was, accountability with regard to planning. Could you tell us—

Mr Hayes: Well, that's exactly what we're saying to the motion, and I guess I can jump ahead. We're saying that we add 15 to recognize the role of municipalities in planning, and that's what we're dealing with here.

Mr David Johnson: Would you agree that your statement, though, is very much more barebones? It doesn't use words like "decision-making authority" and it doesn't use words like "accountability." I think "role" is a very spartan word to describe that.

Could you tell us what part of AMO's amendment you object to in principle? Is it primarily the part of it that pertains to the municipal councils or is it the part that pertains to—

Mr Hayes: I guess really I should answer this with a question to the mover of the motion. Can you explain what you are talking about in your motion about the economic interests of participants?

Mr David Johnson: I assume that, just to finish on my part, and then I'll be glad to have Mr Grandmaître respond to that.

The Chair: Hold on, Mr Grandmaître. That's a question you might respond to in a second. Mr Johnson.

Mr David Johnson: I assume, Mr Hayes, that you don't object to the aspects that refer to municipalities, in other words, the words "which respects the decision-making authority and accountability of municipal councils." Do you object to that part?

Mr Hayes: Our motion will accurately reflect that we are recognizing the role of municipalities in planning, and we feel that our motion will certainly address the concerns of AMO.

The Chair: Mr Grandmaître, do you want to respond to the question Mr Hayes raised?

Mr Grandmaître: Mr Chair, I still want to stand down my amendment until we deal with—

The Chair: I understand, but there was no unanimous consent for that.

Mr Grandmaître: Was there a vote taken?

Ms Haeck: Yes, a voice vote. I said no.

The Chair: I asked whether there was unanimous consent and two or three said no, and that's all you need.

Mr Grandmaître: Then I'm disappointed. If we want to empower municipalities, if we want to create a partnership with our municipalities, you'd better change the title of your famous Understanding Ontario's Planning Reform, because you are not respecting what you're saying in that document.

The Chair: Seeing no further speakers, all in favour of this amendment moved by Mr Grandmaître? Opposed?

Mr McLean: It's a tie vote.

Interjections.

The Chair: No, we're not waiting for him; we have had the vote. The Chair will vote against the amendment based on the general rule that Chairs here support, that we keep the status of the bill as it was.

Mr David Johnson: Mr Chair, could I just have a point of procedure? Does the Chair not vote only in case of a tie?

The Chair: That's what I just did.

Mr David Johnson: There were five for and there were four against, so it wasn't a tie.

The Chair: Mr Hayes is a member of this committee.

Mr David Johnson: Mr Hayes does have a vote? Yesterday I was told he doesn't have a vote.

The Chair: He has been subbed for the entire bill, so he's a member of this committee with full entitlements to vote.

Mr Curling: Could you explain again why you voted for this?

The Chair: The Chair normally supports the status

quo of any particular bill that is presently before us. That is what we all do, as a general rule.

Mr Curling: So you the vote with the government any time there's a tie?

The Chair: I am voting with the bill as it is, and that's the general rule we apply as Chairs.

Mr Curling: The status quo. What is the status quo?
Interjection.

Mr Curling: You're not the Chair, Mr Wiseman.

The Chair: If the committee can't come to an agreement, it's not the Chair's duty to necessarily make that decision for you, so the Chair simply supports the bill as it was. That's what we do all the time. That's nothing new.

Mr Curling: So they vote with the government all the time.

The Chair: But, Mr Curling, it is nothing new that I do as a Chair or that any Chair does.

Moving on: This amendment is defeated, and we have a PC amendment next.

Mr McLean: Mr Chair, our amendment is the same as the previous one we just voted on. I will withdraw it in the interest of time.

The Chair: Wonderful. Moving on to a government amendment.

Mr Hayes: I move that section 1.1 of the Planning Act, as set out in section 4 of the bill, be amended by adding the following clause:

"(f) to recognize the role of municipalities in planning."

Mr McLean: I want to know from the parliamentary assistant where in this legislation it says the local community participants will have some input with regard to the role of the municipalities in planning.

Mr Hayes: This is one thing we're doing in this bill, making sure the public does have access and does have the right to participate, and it's certainly in there all the way through the bill. One of the main purposes of this bill is to have that public input.

Mr David Johnson: I wondered whether, in the spirit of unanimity here, we could agree on an amendment that would read "to recognize the decision-making authority and accountability of municipal councils in planning." I wonder if the parliamentary assistant would be agreeable to that amendment.

1110

Mr Hayes: Mr Chair, I think this committee has already voted on the intent Mr Johnson is bringing forward; it was in the previous one. We feel this will certainly recognize the role of municipalities in planning.

Mr David Johnson: Then can I move an amendment?

The Chair: You can, yes, and we can vote on an amendment.

Mr David Johnson: It would be to delete the words "role of municipalities" and insert in their place "decision-making authority and accountability of municipal councils."

The clause would read "To recognize the decision-

making authority and accountability of municipal councils in planning."

I take to heart what the parliamentary assistant indicated, that we've already discussed this, but in actual fact I think the sticking point on the previous amendment was the phraseology beyond that, which read "in the economic interest of participants," and I've not included that aspect in my amendment.

This is what the municipalities were requesting, the kind of phraseology that we use. I think it speaks to many of the concerns that have been raised here this morning, and I would ask that the parliamentary assistant and the government members have a look at that. It doesn't put in the phrase "economic interest of participants," which I think the government members are very concerned about. It simply addresses the municipalities—I don't know what word to use here—role or the municipalities' part in terms of planning. I know it's something they feel fairly strongly about.

The Chair: Can I suggest that I think we've had—

Mr Hayes: Can I speak on that, Mr Chair?

The Chair: I was about to say that since we've had some discussion we could go for the vote, but if you want to speak to that, go ahead.

Mr Curling: Mr Chair, can't we speak to the motion?

The Chair: We're going to be speaking to the amendment to the amendment at the moment, okay?

Mr Hayes: Taking a look at this, deleting the "economic interest of participants," because that's very vague too, I believe that "recognize the decision-making authority and accountability" can be added in there. We'll support that, Mr Chair, in the essence of cooperation.

Mr Wiseman: Could I just ask for a point of clarification on that, that we are not including "economic interest of participants"?

Mr Hayes: No, we're not.

The Chair: That's what he just said.

Mr Curling: I just want a point of clarification. The parliamentary assistant is on this committee, subbed in as part of the government delegation or committee members. Is that so?

The Chair: Yes.

Mr Curling: So he also will respect the rotation period, not to bring in a time.

The Chair: That's right.

Mr Curling: Okay. I just wanted to make that clear.

Mr Hayes: I never do.

Mr Curling: No, I don't think you do. I just want to make it clear.

In speaking to Mr Johnson's motion, I think it makes a lot of sense. As a matter of fact, when I was looking at the government motion, it actually lacks clarification. It was just "recognize the role of municipalities in planning." That's what the entire bill is all about, to recognize the role of municipalities in planning, so an amendment to that effect is like saying, "Let us put a new planning act together to recognize the municipality in planning."

The amendment Mr Johnson put in, which I'm speak-

ing to now, clarifies exactly what you're recognizing: You're recognizing the decision-making authority and the accountability of the municipal council. I will be definitely voting for that amendment. I know the parliamentary assistant said he'd step his own down because he'd like to include Mr Johnson's own. Here's an opportunity, since you want to move quickly on this, that we will just call the vote, and I will be voting in favour of this one.

Mr Ron Eddy (Brant-Haldimand): I'll be voting in favour of it because it's much more specific and I think it's very important to add. "The role of municipalities in planning" is too general, and it raises questions. You've used the term "decision-making authority and accountability," which I think we need to stress every time, and I strongly support it.

We have a member here from the city of London who is upset and opposed to the way London has been planned. That's unfortunate, and the government has compounded the error by adding 64,000 so that can be badly planned, apparently, too. And we have a member from one of the Durhams, who is upset with Durham regional council. I don't think what they consider bad examples of planning in Ontario should really colour the intent of the whole bill, and I think it's very important to add the decision-making authority. We should all support it because it's an improvement: It's decision-making and accountability, and we want to stress that wherever possible. I think it's good and I strongly support it.

The Chair: All in favour of the amendment to the amendment? That carries.

All in favour of the amendment, as amended? That carries.

All in favour of section 4, as amended? That carries.

Mr Curling: I move that section 2 of the Planning Act, as set out in section 5 of the bill, be amended by,

—(a) striking out the part preceding the clauses and substituting the following:

"2. Every minister of the crown and every ministry, board, commission or agency of the government, including the Ontario Municipal Board and Ontario Hydro, in carrying out their responsibilities under this act, shall have regard to matters of provincial interests such as,"

—(b) striking out clause (q).

An explanation for this is that we've heard consistently that people were opposed to the fact that everyone wasn't adhering to it. Some were following certain procedures "consistent with" and some were "having regard to." I would say that, to put a percentage on it, 90% of the people who came before us said that all ministries and all those I've included in this amendment, boards and all that, should have regard to matters of provincial interest. We could not understand why Ontario Hydro and some other ministries were not consistent with the policy you've laid down as you talk about "consistent with." We think the words "shall have regard to matters" would be a much better way of making it consistent.

Mr David Johnson: I thought I had heard that the government was going to bring forward an amendment in this regard. As I understand it, this would compel all the ministries to be consistent with the policies laid down by

the province. I was sure I'd heard this morning—maybe the parliamentary assistant could comment—that it was the government's intention to move in this regard.

Mr McKinstry: If I can clarify, the section we're dealing with now is section 2, which is a very broad range of provincial interests which the minister and municipalities must have regard to in their planning actions. It's a very broad list.

The policy statements mentioned under section 3 talk to the policies and the fact that the minister and the municipal board and the municipalities must be consistent with them. It is in that section that the government is proposing a motion to include other ministries in the things they do towards Planning Act applications.

Section 2 is simply a very broad range of things that municipalities and the minister need to think about in making decisions.

1120

Mr David Johnson: There's quite a list of functions here: the protection of ecological systems, the protection of the agricultural resources, the conservation of natural resources etc. Can you indicate to me, in this case, why Ontario Hydro, for example, was left out? The words here are "shall have regard to." Why shouldn't Ontario Hydro have regard to these considerations?

Mr McKinstry: In fact we've added Hydro to section 3, with the other ministries, in being consistent with the policy statements. But in this case, as I said, this is just a very, very general list which those decision-makers making decisions under the act, the municipality and the minister, must have regard to. They're very broad and general issues to keep in mind.

Mr David Johnson: Is there any particular problem in terms of including Hydro in here, as it's been included in your later amendment?

Mr McKinstry: We've included Hydro twice. We've also got a section that says Hydro must have regard, in all its actions, to policy statements.

The point I was trying to make is that the policy statements are more specific than this general list, and they articulate, coming out of this general list, what the actual provincial interests are that are laid out in policy. That's what the government's sense is that the decision-makers should be consistent with. This is for the minister to have thoughts of, having regard to, a very broad and general list of things.

Mr David Johnson: In view of the fact that the policies are very much more specific, I guess you're saying that's where the teeth really are in terms of ministries being "consistent with." To use that phrase again, wouldn't it be more consistent if all ministries and Ontario Hydro were included here as well? Doesn't it provoke the question, if they're included under the list where they must be consistent with the policies, why wouldn't they just automatically be included here as well? What rationale would there be for excluding them here? I mean, just to be consistent, the same list all the time.

Mr McKinstry: This section is "have regard to," of course. As I said—I know I'm repeating myself—our

sense is that this is simply things the decision-makers under the act, the people who are actually making the decisions—it's the very, very broad framework they must have regard to, and then the policies articulate in somewhat more detail.

Mr David Johnson: Let me just take one last shot at this. If every ministry, board, commission and agency of government, including OMB and Ontario Hydro, were included here, as is recommended by this motion, what consequences would you foresee that would be undesirable? What would happen that would be bad as a result of including them in here?

Mr McKinstry: I can't give you a thorough legal analysis, obviously, because we've only had these motions for a day, but my sense is that it would give the impression that we were trying to further bind a very wide range of decisions when all we're doing in this section 2 is setting out some very general points which the decision-maker under the act must have regard to.

Mr David Johnson: Just to switch to clause (q), which is part of this amendment as well, it states that the council of a municipality, for example, or a local board, a planning board, shall have regard to "(q) any other matters prescribed," which is indeed very general. Can we be at all more specific in terms of what the ministry anticipates prescribing? I think municipalities are just wondering what's coming down the pipe.

Mr McKinstry: The government's thought there was that issues emerge all the time, and, remembering that this is a framework of "have regard to," a very general framework, this is a mechanism by which the government can indicate to itself and to municipalities any new emerging issues that people need to keep in mind in a general way in making decisions under the Planning Act; also remembering that for policy statements the normal process is quite lengthy, rightly so, and involves a lot of input from the public. This is simply a way of indicating for the public what the government will be thinking about in terms of emerging issues. We don't have any specific idea of what might go in there.

Mr David Johnson: I understand that one of the amendments coming up, which has been requested—and I must say the government has reacted to a certain—

Mr Hayes: A lot.

Mr David Johnson: I'll say quite a number of concerns. How's that? One of the concerns that I believe the government has reacted to is that this would be reviewed every five years.

Mr McKinstry: That the policy statements would be reviewed every five years.

Mr David Johnson: The policy statements. I wonder if another way of tackling this, rather than throwing in a catch-all here so you can prescribe anything at any minute, would be that as circumstances change during that five-year review—and this is what municipal councils would do through their official plans, that sort of thing, when they review every five years, which they're supposed to; it's tough to do, but let's say every five years—as conditions change, then that review points out the changed circumstances and they make changes to

reflect those circumstances at that point. Then there can be a full debate and everybody can be party to it.

I think the problem a lot of people have with the regulations where you can prescribe things is that they just sort of sneak in in the dead of night and there isn't necessarily any debate. I'm sure that wouldn't happen in this ministry, but there have been accusations that that does happen at the provincial level, that regulations allow for things to come in without debate.

Would you consider that, not as an alternative avenue, the five-year review for updating this whole planning process including the policy statements, but perhaps including this bill or a successor to this bill as opposed to prescribing things without a full debate?

Mr McKinstry: The committee will obviously decide on whether or not to accept motions or amendments to motions. My sense is that this is simply a power to allow the government to establish so the public can see what new emerging issues are. Remembering the "have regard to" framework and remembering that it is aimed to the decision-makers under the act, there doesn't seem to me to be very good reason for linking it to a five-year review.

The Chair: Mr Wiseman, you were on the list.

Mr Wiseman: No, I would like to be removed from the list. I understand this section now, from the point of view of clarification, and I'll be supporting the government's position in the bill.

Mr Grandmaître: I'd like to go back to section 5 of the bill, section 2. The reason we would like to see Ontario Hydro included in this section is that if you read on, it's "shall have regard to, among other matters." This is why we would like to strike out clause (q), which says, "any other matters prescribed." Aren't we repeating ourselves?

Mr Eddy: Yes, I think we are.

Mr Grandmaître: What's the difference between "among other matters" and clause (q), "any other matters prescribed"?

Mr Hayes: We're talking about "other matters," other matters pertaining to that local municipality. Then we go on to talk about "matters of provincial interest such as," and then the minister prescribes other matters. That's what that's saying.

Mr Grandmaître: And you don't think Ontario Hydro comes under "other matters prescribed." Is that what you are saying?

Mr Hayes: What I'm saying to you is that we're not being repetitive here. When we talk about "among other matters," that's really dealing with the municipality or local board or planning board. And then when we talk about the "other matters prescribed," it's the minister who prescribes other matters.

Mr Grandmaître: Yes, but in section 2 you're saying, "among other matters, matters of provincial interest," and in (q) you're saying "any other matters prescribed."

Mr Hayes: I'll ask for clarification from Mr McKinstry.

Mr McKinstry: What this section is talking about is that these are the broad planning principles which decision-makers under the act have some regard to. It's not an exhaustive list, so that's why we're saying "among other matters" that the decision-maker sees as good planning principles. The specific prescribing power at the end is to identify matters that emerge. Because the world is changing quickly, new things emerge all the time, so it's a way of getting them on to the list so people at least have thought to them when they are making decisions under the act.

1130

Mr Curling: The amendment stated that we want every minister, not only the minister. We could take it another way around: Delete all that from (a) to (p) and just say "any matter prescribed." What you have done here is make a listing of all these things you're prescribing, as you said here, "matters of provincial interest such as," (a), (b), (c), (d), right down to (p), and then when you thought you have exhausted it, "Oh, no, no, and any other thing we can think of, if we got up one morning and felt we should prescribe it."

I think what you should do, to save paper, is eliminate (a) to (p) and just say straight here, "of provincial interest that we will prescribe."

Mr Grandmaître: Then it covers everything.

Mr Curling: Then we've covered everything. Come very straight with the municipalities and say: "We're not giving you any leverage at all, any decision-making. We're going to name all these things here, and in case we forgot anything, at any time of the day, we will prescribe some other matter." Wouldn't it be better that way?

Mr Hayes: At one point we were talking about not being specific. We're being very specific here, and now the opposition is saying not to be specific. What this really intends when we say "any other matters prescribed" is that the government certainly should retain the ability to prescribe any other matter of provincial interest. This provision does provide the government with the flexibility needed as a response to emerging planning issues. I think that was already indicated earlier.

Mr McLean: Just for clarification, didn't the minister this morning say he wanted to take that "matters of provincial interest" out of the bill, in the news conference you had?

Mr Hayes: No. I'll just make sure you get the proper clarification, and I'll ask Mr McKinstry.

Mr McLean: Isn't that what the minister said this morning?

Mr Hayes: No, it's not.

Mr McKinstry: That is what the minister said. What he was referring to was a current tool in the Planning Act, which is a powerful tool, which allows the minister to declare a matter of provincial interest when it is before the board. What that means is that when the board makes its decision, it is subject to review by cabinet.

Mr McLean: And he's taken that out.

Mr McKinstry: And that will be taken out. This issue in section 2 is simply a broad range of good planning

issues which municipalities and the minister would have regard to. This is not a tool that would allow the minister to intervene so much as to set out what the provincial interests are so people are aware of them.

Mr McLean: So is it still in the bill that the minister can defer the bill while it's at the OMB before it is finalized? There was some section in the act and I just wanted a clarification on that, that the minister could defer a bill before the OMB before it was finalized.

Mr McKinstry: Once a matter is before the OMB, the minister will have the same kinds of ability to intervene that other members of the public have, which is appearance before the board. The board's decision would be final. There will be no ability for the minister to take it back to cabinet for change or ratification.

Mr McLean: But he could withdraw it due to a provincial interest at that time.

Mr McKinstry: No. Once it's before the board, the board has carriage of the matter and the board can make the decision on how it gets finally disposed of. The only avenue the minister would have is to appear before the board and argue his case before the board.

Mr Wiseman: At what point does the minister have the power to declare a provincial interest?

Mr McKinstry: Currently, the minister has the power under all the Planning Act tools, which are official plans, subdivisions, zoning, zoning orders. He must declare that before it goes to the board and then the board makes a determination and then it's subject to review by cabinet. That's the current process which will be changed.

Mr Wiseman: And the suggested changes are?

Mr McKinstry: To simply delete the ability of the minister to declare a provincial interest.

Mr Wiseman: Period.

Mr McKinstry: Period. So there will be no ability to bring it back.

Mr Wiseman: That's page 16, I guess.

Mr McKinstry: It occurs throughout the Planning Act currently so I can't tell you all the exact sections, but each instrument, like a subdivision, like a zoning order, like an official plan, would have that reference currently in the Planning Act.

Mr Wiseman: This is a new piece of information. We didn't hear from anybody that this change to provincial interest was going to take place. That wasn't part of public hearings, that wasn't part of any kind of discussion that was taking place, and the public has had no opportunity to comment on this change and to have input into it.

Mr McLean: Nor had the opportunity to question the hundred amendments we got.

Mr Wiseman: No. I think a lot of the amendments we have are in response to what we've already heard.

The Chair: Mr Wiseman, is that a statement or a question?

Mr Wiseman: It's a comment.

The Chair: Okay. We understand that.

Mr David Johnson: Just in terms of your response to

Mr Wiseman indicating that there will not be now the opportunity to declare a provincial interest—

Mr Wiseman: That isn't necessarily the position.

Mr David Johnson: Well, that's one of the amendments that's coming forward. I might say I disagree: I think that question did come up and I think the ministry is responding, that the parliamentary assistant and I'm sure everybody else is responding to concerns that did come up through the deputations. You look like you want to make a comment on that.

Mr McKinstry: I was just going to make the comment that Mr Wiseman made, that there's a motion before the committee, but the committee obviously has to decide whether to believe that.

Mr David Johnson: At any rate, that's going to be a motion and that's been put forward. Isn't it an unfortunate use of words here, then, where it says in this particular clause that municipal councils, in a sense, "shall have regard to...matters of provincial interest"? I realize it's just general principles and they only have to "have regard to," but still they do have to have regard to matters of provincial interest.

Mr McKinstry: If I could respond to that, Mr Chair, one of the things about legislation that I have learned through this process is that legislation uses specific terms to mean specific things. In the Planning Act, for example, there's something called a declaration of provincial interest, and you have to use the whole phrase to really get the concept of what it means when the minister declares a provincial interest. Section 2 is the broad general matters of good planning about which the government says, "These are all matters of provincial interest." The declaration—and I understand that it may be somewhat confusing—is a very specific reference.

Mr David Johnson: That's what I'm saying, that it may well be confusing to some municipalities. Essentially, it looks like the same phraseology and they may take it to mean the same thing. I think it's unfortunate that there couldn't be another way of phrasing this.

1140

Ms Haeck: I'd like to follow up on a number of the queries that have taken place on this issue of "provincial interest," "have regard to", "be consistent with." Item (d) of 2 is something that is of significant interest to my constituents, the issue of "conservation of features of significant architectural, cultural, historical, archaeological or scientific interest."

I have had the occasion to be at arbitration and mediation hearings; you hear the word "reasonable" used a lot, and I think the definition of that frequently is open for debate. I look at the word "significant" and it's one that always gives me some pause. I'm wondering to what degree we can get a definition from the ministry of culture—I'm not sure if there's anyone here from the ministry—as to its view of what the meaning, the definition of the word "significant" is before we wrap up discussion on this clause. I know it is of, shall we say, significant interest to my own constituents.

Mr McKinstry: There are two ways I'd like to answer this. You're referring to (d), the significant

architectural. As I said before, these are very general, broad matters of provincial interest, so we did not make any attempt to be specific in the definition. However, in the policy statements we have much more specific reference to the protection of archaeological and heritage resources and the way in which that will happen, and the guidelines will help spell that out.

Ms Haeck: I have looked at that myself because it is of such concern to my residents, particularly in the town of Niagara-on-the-Lake. They have raised with me as recently as this past weekend their concern about archaeological features or architectural features in their respective communities. In terms of the word "significant," I would like to get a better handle—because it's repeated in the policy statements, not just here. It is also in the policy statement.

If it only means a building that has been designated by LACAC, you are ignoring, to use the word again, "significant" amounts of other facets of the community that should receive some sort of attention. Therefore, I think it would be appropriate if we get a handle on what the word "significant" means in people's minds. I have an idea of what it means in mine, but I'm not a lawyer. I suspect that lawyers get paid to have a good time with words like "reasonable" and "significant." A lot of time can be spent defining that, and I'd much rather spend it now than, as we do regularly in the community, watch significant parts of our heritage be destroyed because it doesn't happen to have the appropriate plaque on the wall.

The Chair: Is that a question?

Ms Haeck: I would like to hear the definition, yes. It's one I've been asking for some time, so I'm obviously very much concerned.

The Chair: Is the question to define what—

Ms Haeck: What does the word "significant" really mean in the scheme of things? That's what my constituents want to know, and I'm on record as being concerned about it in many places, including here. I would dearly like to have an idea of what that does before we move to another section.

Mr McKinstry: As it's clear, the legislation does not define it. My understanding is that one would go to dictionary definitions and also to the policy statements. I think what we would say is that it is important resources, resources that are important to the community, that have some significance, if you like, if I can use the word again. This particular section, because it is broad and general, does not attempt to define it. We are doing work on the implementation guidelines and the task force and the technical committee, however, to think about how the policy statements would get implemented.

Ms Haeck: Has that task force dealt with these kinds of definitions?

Mr McKinstry: The task force has heard presentations from the ministry responsible for that guideline. I think it's called the ministry of culture and communications now.

Ms Haeck: No. Culture, Tourism and Recreation.

Mr McKinstry: Culture, Tourism and Recreation; I'm

out of date. The task force is now thinking through whether they like that or not and how that might work.

Ms Haeck: Well, I'm still concerned.

Mr Wiseman: Just in the light of your explanation, I've become more concerned. This section deals with section 2 of the act, and I was just about to look up what section 2 of the act says. What is the fundamental difference between section 2 of the Planning Act as it currently exists and what this section will do?

Mr McKinstry: We are just checking the exact differences. The introduction is different: "the council of a municipality, a local board, a planning board and the Municipal Board" have been added.

Mr Wiseman: And it's been added with the comment "shall have regard to." Why would we put "shall be consistent with" somewhere else, I think later on—is it subsection 3(5) of the act is repealed?—have "shall be consistent with" there and not have "shall be consistent with" here?

Mr McKinstry: A lot of public input and a lot of work went into the words of the policies, because we appreciated that people needed to have some idea of exactness when we were applying the test of "shall be consistent with." The section 2 items are broad and general, and we felt these were matters where municipalities and decision-makers should "have regard to" because they are broad, general, guiding principles.

Mr Wiseman: When you compare this section with the policy statements and you're trying to define in your official plans and your official plan amendments and so on, which section will take more weight?

Mr McKinstry: The policy statements, because they are more specific and they do have a "be consistent with" test, would obviously take precedence in terms of the consideration. The municipality, the minister, will think about the broad, general range first and then will go into the policy statements to meet the test "to be consistent with."

Mr Wiseman: I share some of the same concerns my colleague does in terms of the definition of these phrases, the comments that perhaps they don't define in a clear enough way what it means. For example, (g) "the minimization of waste": That's a very large topic where I come from. I could spend the next probably five hours describing what I would define as the minimization of waste.

Mr Hayes: Please don't.

Mr Wiseman: Yet here we don't know what it means; it's "have regard to." That doesn't seem to me to be strong enough in terms of "shall be consistent with." It should be "shall be consistent with the waste reduction policy of the waste reduction act." What does it mean? All it is is "have regard to." It doesn't seem like a very strong statement and it's not clearly defined. What do we mean by "the minimization of waste"?

Mr McKinstry: The minimization of waste is another general planning policy where, in the making of decisions, municipalities should be aware, ministers should be aware, of thinking about waste and any waste issues that arise out of, for example, a plan of subdivision. As I said,

there's no attempt to define these matters because they are broad and general and they're things that decision-makers should keep in their minds.

1150

Mr Wiseman: But shouldn't this be "shall be consistent with the 3Rs regulations and the waste reduction, Bill 143, Bill 7," that the minister and the ministries should be forced to be consistent with that as much as they should be consistent with the policy statements? We heard from John Sewell, and he said "shall have regard for" is like saying, "I've taken a look at it, I've regarded it, and then just dismantled it." Shouldn't the ministries and the minister be as constrained to follow the policies as everyone else? And that would require stronger phrasing.

Mr McKinstry: The minister is required to follow the policies, under section 3 of the act, required to be consistent with them. As I said, it is difficult to impose a "be consistent with" framework when the matters to be considered are broad, are general and are not specifically defined. We've gone to a fair amount of effort within the policy statements to provide definitions and also to provide implementation guidelines to explain examples of how they might be worked out. That's not the case with section 2.

Mr Wiseman: I'm still a little bit leery about this lack of definition. It says "the protection of ecological systems," and we heard from the council of the mayors of the greater Toronto area, who were asking for a broader planning system. You would have to have people taking into account that the Don River, the Rouge River, Duffin Creek and all these other rivers, the Humber, have their headwaters in different municipalities and flow through various jurisdictions, yet we don't have, according to them, any way to commonly plan. So how can the minister "have regard to...the protection of ecological systems, including natural areas, features and functions," if we don't have this kind of planning?

What I'm trying to get here is just a little clearer idea of what this act is going to do with respect to this whole area, (a) through (p).

Mr McKinstry: The policy statements are very specific about the protection of—I'm trying to think what the actual words are—ravines and river systems, and that addresses your concerns on those creek systems, that municipalities must be consistent with the policy statements which say you have to protect valley and stream corridors.

Mr Wiseman: But if you have a situation as has arisen on the Rouge River, in the Rouge park, where private developers own large tracts of land in the area that's designated as the Rouge, the previous Planning Act "shall have regard for" under this section says the protection of the natural environment, including the agricultural resource base of the province and the management of natural resources. That had absolutely no impact. In fact, the minister had to declare provincial interest on the land holdings in the Rouge in order to prevent them at the Ontario Municipal Board hearing from going forward and perhaps having development done.

I'm just wondering how in the future a minister, who you're saying may or may not have the power to declare provincial interest in that situation, will be able to protect those environmental features when it seems that other aspects of the act have perhaps been negated at the Ontario Municipal Board? While there will be a physical or environmental feature that the minister would like to save, he or she will not be able to do so. The act has been powerless and its implementation has been powerless to preserve as well.

Mr McKinstry: Currently, the policies under the Planning Act do not address the protection of river and stream valleys. That's what will be different in the future. There will be policies under the act towards that protection.

Mr Wiseman: If I remember the policy—and you can correct me on this and I hope you will—what we're talking about are floodplains. Or are we talking about if there's table land in the midst of a valley, that would also be included in the policy statement if that table land is above the height of the 100-year highest flood mark?

Mr McKinstry: If I can quote the policies, one of the policies says, for example, "Development will not be permitted on adjacent lands to (1) and (2)"—and that's some other stuff—"if it negatively impacts the feature or the ecological functions for which the area is identified." It's also saying, "Development will not be permitted in significant ravine, valley, river, and stream corridors, and in significant portions of the habitat of endangered species and threatened species."

Mr Wiseman: There may be a circumstance, though, where a large chunk of table land between two sections of the same river doesn't meet that requirement but should be saved as a natural corridor or part of a system, but the Ontario Municipal Board may not agree and the developer may not agree and the council may not agree. Currently the minister could declare provincial interest on that and that would be something the government could act on. What happens if everything fails?

Mr McKinstry: The issue of provincial interest is not one I really want to comment on; it hasn't come before the committee yet, so I don't know what would happen.

Mr Wiseman: But I'm talking about this section. There are some differences in this section, but the key phrase "shall have regard for" is the same as under the old Planning Act. Under the old Planning Act it sounds really great—"the health and safety of the population," "the protection of farm land"—but this just didn't happen anywhere. That's my major concern, that "shall have regard for" is too weak a phrase even in this section of the bill.

Mr Hayes: Just really quickly, Mr Wiseman is raising a valid point, of course, but at the same time they still have to be consistent with these policies. Even though that says "have regard to," there are different things in here that aren't really spelled out in the policies. They still have to be consistent with all the policies.

The Chair: I'm going to recommend that we recess. Ms Haeck is on the list, so we're not ready for this vote yet. This committee is recessed until 2 o'clock.

The committee recessed from 1158 to 1410.

The Chair: Ms Haeck, you were on the list to speak to the item that we were dealing with prior to recessing.

Ms Haeck: Actually, Mr Chair, since there was an awful lot of discussion which some of us have managed to conclude over lunch, I will at this point give up my place in line.

The Chair: Very well. We're ready for the vote. All in favour of the Liberal amendment? Opposed? Okay, that amendment is defeated. We now have a PC amendment.

Mr McLean: Identical to the previous one that was just defeated, it's section 5 of the bill, section 2 of the Planning Act, and in the essence of time I will withdraw that amendment.

The Chair: Very well. Next amendment, Mr McLean.

Mr McLean: Thank you, Mr Chair. Section 5 of the bill, clauses 2(h) and (q) of the Planning Act. I move that clauses 2(h) and (q) of the Planning Act, as set out in section 5 of the bill, be struck out.

We've had a lot of discussion on that this morning, and it appears to me that those two—"any other matters prescribed" is what (q) stands for and "the orderly development of safe and healthy communities." We don't see that there's any need for those to be in this section 5, section 2, and I'm requesting that they be struck out of the bill.

Mr David Johnson: Could I ask, either through the parliamentary assistant or his right-hand person there, could somebody give me a definition of a "healthy community"?

The Chair: We're in trouble. Mr McKinstry, give it a try and be as exhaustive as you can.

Mr McKinstry: As I said before lunch, these are general good planning principles. We have not attempted to define any of them, and therefore the dictionary definition would apply, but as a general planning principle it would seem to the government that safe and healthy communities, communities where people can live, where they can be secure which have good environmental qualities, which have good civic qualities, are an important provincial interest.

Mr David Johnson: Since this is in your planning document here, I assume that you have something in mind beyond the generalities. When we're talking about the word "healthy", are we talking about hospitals, are we talking about public health? You know, if you look in the dictionary—I don't know what the dictionary would say about the word "healthy"; it's probably broad-ranged—what context are we thinking of in terms of the word "healthy"?

Mr McKinstry: It's an overall concept for communities as a whole, so it wouldn't refer specifically to the provision of a particular hospital. However, it would refer to having industries that are not polluting, to having neighbourhoods that respect the environment and to having safe neighbourhoods—that's the other reference in there—where people are secure.

Mr David Johnson: Do I gather from your comments

then that the word "healthy" pertains more to the environment? You see, when I saw the word "healthy", I assumed you were talking about health, such as public health or maybe that a community would have a number of hospitals, something of that nature, everybody would be immunized or something like that, but you're really—

Mr Gary Wilson (Kingston and The Islands): You think that's healthy?

Mr Wiseman: We were sort of thinking they'd all be New Democrats.

Mr David Johnson: Can we immunize against that? I don't know.

You're telling me now that this is really directed towards environmental concerns, is it, as opposed to health concerns?

Mr McKinstry: I gave some examples which happened to be environmental. Those are not the only parts of the definition. It also includes the overall health of the community, that it's a viable community, that it has jobs for people, for example. It is the overall health of a community. It includes the environment and jobs and adequate health facilities.

Mr David Johnson: Christel Haeck raised the question of the word "significant," which is one I think she does well to raise, because a number of people have raised that before. I think at least the word "significant" has probably appeared in other documents; I'm not sure, but I suspect it may have, with probably the same concern. Has this phrase "healthy community" or "safe and healthy community" been used in any context in planning in the past or is this the first?

Mr McKinstry: I can't tell you about any other planning context. I'm not aware of whether it has or has not.

Mr David Johnson: I'm sorry, your title is?

Mr McKinstry: Acting director, municipal planning policy branch.

Mr David Johnson: Within Municipal Affairs?

Mr McKinstry: In Municipal Affairs, yes.

Mr David Johnson: Is this a phrase that has been used, to the best of your knowledge, in any other piece of legislation?

Mr McKinstry: I don't know about legislation; I can't say whether it's been in legislation or not. Certainly the concept is fairly common in planning as an academic discipline, if you like. Planners think about safe and healthy communities.

Mr David Johnson: I'm sure planners since time began have thought about safe and healthy communities in some sort of airy-fairy context or whatever, but by introducing it here, I think the concern is that when you come down to, let's say, a planning meeting and municipalities are directed to have regard to this concept, whatever it is—

There are two sides to this issue. I think Christel Haeck has probably pointed out that on the one side there would be concern that maybe the development industry would have a definition of "significant" that would exclude many archeological or historical features, and perhaps the local municipalities would go along with it,

in which case there wouldn't be the protection.

On the other side of the coin, the building industry, for example, would be concerned that somebody would use these kinds of ill-defined or undefined phrases such as "significant" or "safe and healthy communities" to essentially object to any kind of development whatsoever and say they object on the basis that it's not a safe and healthy community. There's no definition. Take 100 people and there'll be 200 versions of what it means. This could actually be an impediment and something for those opposed to grab on to. I wonder what your comments would be in that regard.

Mr McKinstry: The policy statements, in some senses, take some of these concepts and refine them more thoroughly. The policy statements which people must be consistent with would actually give more refinement on the kinds of communities that should be developed and where they should be developed and the orderly nature of the development that would take place. That's really where people would be going when they're thinking about "being consistent with."

Just to return to your previous comment, the old Planning Act, the existing Planning Act, actually has the words "the health and safety of the population." What we simply did is focus on the community rather than the population, that the community as a whole needs to be healthy and safe. The concept's already in the Planning Act.

Mr David Johnson: From your comments then—you've indicated that the policy statements are more specific and that's where the primary concern would be—I'm having a little trouble and I think maybe Mr Wiseman was earlier today too.

1420

Mr Wiseman: Not any more; I've got that all figured out.

Mr David Johnson: He's got it all figured out. All right. Maybe he'll explain it to me. On the one hand, we have the policy statements; on the other hand, we have this, "this" being the set of principles—or something of that nature, I guess—that the municipalities have to have regard to. Really I think what you're saying is: "Don't worry about these principles. Worry about the policy statements, because that's where the action is." If that's the case, then why do we have these principles if they really don't mean anything?

Mr McKinstry: I guess I wasn't saying, "Don't worry about the principles." I think it's important that decision-makers look at the principles, and the principles are quite wide and broad. It helps them focus their minds on the different issues in planning that they should be considering when they're considering planning applications. When they're making their decision, they've got some very specific direction that they must be consistent with. It really is one thing flowing out of another thing.

Mr David Johnson: Yes. Could you foresee a scenario whereby there could be an objection to, let's say, a subdivision or something of that nature, because—

Mr McKinstry: Under this section?

Mr David Johnson: Under this section, yes, under

clause (h). The objection would be that the municipality did not have regard to the orderly development of a safe and healthy community, so therefore I object and wish that this subdivision which the municipality has approved be referred to the Ontario Municipal Board, for example, for a review and be overturned?

Mr McKinstry: People object on all kinds of grounds, so I wouldn't predict who might object and on what grounds. However, it seems to me that at the Ontario Municipal Board the board will have to be thinking about being consistent with the policy statements, and the policy statements are more specific, so the most specific direction would come from the policy statements.

Mr David Johnson: In terms of the ministry's review itself, the ministry will have to be satisfied, I guess, that any planning proposal be consistent with the policies.

Mr McKinstry: The ministry's role in the future certainly will be to approve upper-tier official plans—regions and counties. The long-term scenario envisaged by the commission and the government is that municipalities will be responsible for development applications, regions and counties will be responsible for lower-tier approvals. The minister would be responsible for consistency on applications that he approves. Other decisions would be responsible for consistency in applications which they approve.

Mr David Johnson: All right. Now, at the regional level, if there's a subdivision—and some of the regions, I think, have the authority for subdivisions—is not, as I understand it, the provincial government looking to see that any regional actions would be consistent with the policies?

Mr McKinstry: I guess it depends how you look at it. Certainly, the different ministries are likely to be involved in significant or large or provincial-scale applications at the local level. The province is not going to review all development applications, but the individual ministries—where there's a wetland, for example, MNR would be involved; where there are contaminated sites, Environment and Energy would be involved. So the provincial government would maintain its role.

Mr David Johnson: I guess I'm jumping ahead a little bit, but I'm trying to get the difference between this area and the policy area. In the policy area it says that, "The municipal board under this act and such decisions under any other act as may be prescribed shall be consistent with the policy statements issued under subsection (1)." Somebody has to ensure that a decision of a council or a municipality, a local planning board, is consistent with the policy statements. I presume that entity is Municipal Affairs, I would guess.

Mr McKinstry: My understanding of how the act works is that it places an onus on decision-makers to be consistent. The legislation places the onus on the decision-maker, and therefore the decision-maker is required by law to be consistent with the policy statements.

Mr David Johnson: But who is the enforcer? If the local municipality is not consistent, then who is checking that and who is enforcing it?

Mr McKinstry: There could be many checks and

balances in the system. There is that appeal, at the end of the process, to the OMB. It could be the province, it could be a community group, it could be an individual who might say, "I don't think this is consistent and I'd like to have a chance to be heard by the OMB."

Mr David Johnson: The reason I ask those questions is because I'm trying to determine the difference between there and here. Here, under these principles, the municipality "must have regard to." Who is checking up on that? Again, is that simply by appeal, somebody issuing an appeal on the decision of a municipality, saying, "The municipality did not have regard to a safe and healthy community," whatever that is, "and therefore I appeal."

Mr McKinstry: It is possible that someone might launch an appeal based on one of the section 2 matters. However, it seems that the board will be looking to the specifics of the policy statement to determine consistency. They'll be looking to the broad issue of whether these proposals satisfy, on a very broad conceptual level, the matters in section 2.

Mr David Johnson: We've had this kind of discussion, but we've had a number of instances raised today where words or phrases are not defined. I think there's frustration on both sides of this table, which has been expressed today, over various words, such as "significant." I've heard the word "reasonable"; it's come up. It's interesting to know what the word "reasonable" means. Earlier this morning we had sustainable economic development, which is not defined here. We have "safe and healthy communities," another phraseology which is not defined.

There are certainly people involved in the planning process in the province of Ontario who are just waiting for the numerous different interpretations that are going to take place on these words and their impact. I think people, whether they're concerned that too much development has taken place or they're concerned that there's too much red tape in the development process and we should speed up development—so they're coming from the other side of the equation—on all sides are concerned that phrases and words are creeping in that are not defined and it's going to quite likely result in a considerable amount of confusion. That's primarily why Mr McLean has moved that amendment.

Mr Winninger: Just briefly, in response to a couple of comments that were just made. I don't believe you can ever narrowly circumscribe the meaning of a healthy community.

For example, I mentioned earlier Bill 75, the annexation bill for London, which led to the establishment of what's called Vision '96, a whole process of consultation through committees to define what the next 20 years of planning should look like in London.

What happened in that case was that several people came forward and said, for example: "A healthy community doesn't just mean you've got enough hospitals, walk-in clinics, a public health unit and so on. It goes beyond that." A clergyman came and said, "Well, there's a spiritual dimension to health, so you need to make sure you have churches that will serve the spiritual needs of the community." Psychologists and other mental health

practitioners said, "Well, mental health is an important component, so in your planning you have to address that need as well."

So there's physical, mental, emotional, spiritual already there that need to be factored into that planning process and when Mr Johnson asked, "Is this being done anywhere?"

I would say London is already an example of where the broader definition of health is being put into practice in the planning implementation.

The comment then about, "How can we define a healthy community?" is one I think that the community itself has an important role to play in defining. What the needs are of that community will have to emerge through the official plan. That's the response I wanted to make to Mr Johnson's comments.

Mr McLean: I just want clarification from the ministry with regard to clause (h) and clause (o): (h) is "the orderly development of safe and healthy communities"; (o) is "the protection of public health and safety." What's the difference between those two?

Mr McKinstry: "The orderly development of safe and healthy communities" is, as I said to Mr Johnson, the overall development of a community that satisfies the needs of its residents, has the right facilities and is safe for people to live in.

On "the protection of public health and safety," more goes towards the policy statements on flooding, Great Lakes flooding as well as riverine flooding, and the policy statements on contaminated sites where municipalities' decision-makers should have some regard to permitting development in areas that might not be safe for human health.

1430

Mr McLean: Wouldn't clauses (c) and (d) kind of cover that then, protection in clause (a), "the protection of ecological systems, including natural areas, features and functions" when you're talking about the health of the public, of the community, of streams, erosion and that type of thing?

Mr McKinstry: Clause (c) talks about, "the conservation and management of natural resources and the mineral resource base;" and that deals with conservation of the natural resources as opposed to the protection of health.

In our flooding policy statement, we talk about not allowing development on floodplains because of the danger to human health as opposed to other features that are protected because of the intrinsic value of the feature.

Mr McLean: Then the last question I have is, what would come under "any other matters prescribed"? It seems to me you've got more than enough in there now. What can come under that?

Mr McKinstry: The world is a rapidly changing place and we don't know what emerging issues might come out. Therefore, that allows the minister to speak to emerging issues and to let everybody know what those emerging issues might be.

The Chair: M. Grandmaître, has your question been answered or not?

Mr Grandmaître: Yes, one short question to—now that you're using "health" and promoting healthy communities and so on and so forth, will we have a definition of what you really mean, because it is confusing when we see the words "health" and "healthy" in different sections of the bill? Are you going to provide us or provide the public with a definition of how you use the words "health" and "healthy" and what it really means?

Mr McKinstry: My understanding of the way legislation works is that definitions, where they're to be included, are included in the legislation itself and those definitions are not at this point in this definition. As I said, these are broad, general concepts, so we're not attempting to give very precise definitions of them.

Interjection.

Mr McKinstry: In terms of the policy statements, the guidelines will certainly address a lot of the issues of what the terms mean in the policies. That's certainly true and that's going on now.

Mr Wiseman: I just want to ask a question. I think I understand this section now and that these are—

Mr McLean: You're the only one who does.

Mr David Johnson: He's not confused.

Mr Wiseman: I'm not going to say anything. Basically what we're doing here is outlining in broad principles the terms with which the minister will be required to exercise the responsibility as Minister of Municipal Affairs and planning in the province?

Mr McKinstry: That is certainly one of the clear intentions of that section, yes.

Mr Wiseman: If, for example, the minister is going to make a decision in an area or whatever, then these should be the broad principles the minister should look at.

Mr McKinstry: I would agree with that, yes.

Mr Wiseman: Basically what we're seeing, in real life then, in housing and in other areas—Cornell, for example, in the Markham area and Seaton in my area—these areas are being planned with input from the community and they are defining what these mean within the context of the local community as opposed to these being the hard-and-fast principles. What we're doing here in this section is setting it out to the minister and saying: "Look, planning in Ontario you will have regard for. When you're sending out a policy or if you're setting into motion any kind of activity, these are the principles that you should be following."

Mr McKinstry: Yes, I think that is true.

Mr Wiseman: Therefore, it's not necessary in this area to have the strident "shall be consistent with" definition that we need later on when we're getting into the specific planning of subdivisions and official plan amendments. Do I have that right?

Mr McKinstry: Yes.

Mr Wiseman: Then I want to vote on this now then.

Mr Hayes: Just on that point, people asking for certain definitions, I was just thinking back to my previous job as occupational health and safety representative. We have the Occupational Health and Safety Act and there's

no clear definition of health and safety in that act. So I mean, it's—

Interjection.

Mr Hayes: No, it's not a surprise.

The Chair: It's consistent.

Mr Hayes: You fellows should understand the common sense, you know.

The Chair: There you go. Okay, moving on, I think we're ready for the question. All in favour of Mr McLean's amendment? Opposed? That motion is defeated.

All in favour of section 5? Opposed? That carries.

Mr Eddy: I move that subsection 6(1) of the bill, subsection 3(2.1) of the Planning Act, be amended by adding the following subsection to section 3 of the Planning Act:

"2.1: Policy statements issued under this section shall not be specific in their application to an area of the province."

This is a recommendation proposed by the Association of Municipalities of Ontario with which we agree, and it's simply because we don't think that individual areas of the province should be picked out for special treatment, inordinate treatment, by provincial policies, planning policies.

Ms Haack: I know Mr Eddy is a strong advocate for agriculture and if this particular provision would go forward it would, I think, compromise programs like the tender fruit land projection program that the Ministry of Agriculture is trying to put in place in my own riding. I continue to advocate on behalf of programs like that and obviously there are other instances where something like this might come forward. So I'm sorry, Mr Eddy, as much as I understand the idea of trying to provide an umbrella and some consistency across the province, I think my residents would have some great concern about this and I can't support it.

Mr David Johnson: As Mr Eddy has indicated, this comes out of concern of the Association of Municipalities of Ontario and my understanding is that they are attempting to convey the opinion that, again, the provincial government should have broad policy statements but that the policy statements should not be specific to any one area of the province.

I'm wondering, first of all, if the ministry and the parliamentary assistant agree with the concept that AMO's putting forward that the provincial government should have broad policy statements, but the municipalities should be able to govern within that, within their own areas?

Mr Hayes: In response, this power—actually, the province currently has it and I haven't heard of any problems with it in the past, but it is necessary for the province to maintain the flexibility to respond to emerging issues. I think it's very important that we have that, so we can't support this.

Mr David Johnson: Can you give me an example, through the parliamentary assistant or the staff, of a situation where you feel that the provincial government needs to retain fairly specific powers within an area of

the province, and that if this clause was inserted, it would cause problems for the province?

Mr McKinstry: The first thing I'd say is that the government wants to set broad policies. Even where they were setting a specific area, I suspect that the policy direction would remain broad and in terms of specific areas of application, there could be many. There's been a lot of work, for example, done with the different GTA municipalities on some kind of guideline for the GTA.

1440

There have been thoughts on the Oak Ridges moraine that it could be a provincially significant area and requires some kind of policy direction. There could be many areas of the province where there is an overriding provincial concern and where there's some sort of policy direction needed, but it would be broad policy direction for specific areas.

Mr David Johnson: Can you give more specific examples? Are you talking about housing, for example, housing targets, affordable housing and that kind of thing? Is that the type of thing they're contemplating?

Mr McKinstry: I don't know what a minister or cabinet might direct that this be used for. I would think it would be broad general policies for an area, so it is less likely to target housing as to say, "For this area, here are the broad provincial interests," protection of aquifers or promotion of growth or whatever, depending on the area.

Mr David Johnson: Municipalities are concerned that authority is being lost and that the province of Ontario is stepping more and more into planning with specific directives. I guess Bill 120 is one case that they quite often point to and various aspects of this bill as well. Do you view that as being the future of planning in the province of Ontario? Is that the way we're headed?

Mr McKinstry: The government has been fairly specific in setting out the principles behind this bill. One of them of course is municipal empowerment. The current act allows the province to have policy statements for the whole province or for specific areas, so I wouldn't see that the provision in the current bill would change the status of the province in relation to municipalities at all. The government does wish to empower municipalities and is doing many things to do so.

Mr Grandmaître: The special areas that you're relating to—would they include, for instance, the Niagara Escarpment plan and the parkway west plan?

Mr McKinstry: The Niagara Escarpment plan was developed under its own legislation so it has its own legislation.

Mr Grandmaître: Yes, but the minister still has a word to say about that. Nobody in the commission—they're on their own, but the minister does have an eye on what the commission is doing and if he doesn't like it he can step in, right?

Mr McKinstry: As far as I know, there's an appeal to the board by the minister. The minister does not have the power to veto, for example, the—

Mr Grandmaître: No, no, I'm not saying he can veto what the commission is doing but he can appeal—right?—what the NEC is doing or the parkway west. So

these—I call them special areas—are what you're relating to, special areas where they have a special plan like the GTA and all of these great areas?

Mr McKinstry: Just to clarify, the Niagara Escarpment planning area is a very specific kind of tool which has its commission; it issues development permits. It's a very, very detailed planning tool.

Specific policy statements would not at all look like that. They would be broad general policies for a specific area of the province and the examples I gave were just examples. I have no idea what the government might do in those or other areas where there's some kind of area of provincial interest.

Mr Eddy: While I can understand AMO's concern, and I did when I proposed this amendment, I have even greater concerns now that I've heard the explanations. I know why the municipalities are concerned about this because, if we don't have this, it means any area can have special policies. Maybe you want that, but it seems to me that it will completely remove local planning decisions from any area.

Every area is special and nearly every area has specific and special land formations or aquifers of various types. In my area we have great aggregate deposits and aquifers. The aggregate deposits are protected, of course. You have a broad policy stating the provincial interest. When it comes to aquifers, aquifers are common across this province. In nearly every part there are very important aquifers, so if you're going to develop a policy, it should apply across the province.

One member mentioned preserving the tender fruit lands and a program for that. I don't see that program being affected by this amendment, because that's agricultural land and indeed the program is to maintain the agriculture there, so I don't really see a problem. You might want to comment on that.

We mentioned the Niagara Escarpment, the special legislation and special hearings etc, and you have the conservation authorities holding special hearings, as well as the municipalities in certain areas.

Oak Ridges moraine: You may want to indeed have special legislation for that. I don't know what's going to happen.

It seems to me that this amendment is necessary in order that a minister can't bring in policies—you say they're broad policies. They're not broad policies, they're very specific policies for certain areas. I just think we should be dealing with the whole matter of provincial concerns on broad planning policies for the entire province, or indeed we do not have local or community planning.

Mr David Johnson: I wasn't sure, when I was getting into this, exactly what's being proposed here, but do I understand this correctly: if I'm a builder and I'm trying to think of what I have to go through for a certain application, then I would have to comply with the local official plan in zoning, I would have to comply with the regional official plan, I would have to be consistent with the provincial policies, I would have to have regard to the provincial principles which are enunciated on page 4 and,

on top of that, again there may be another set of regional broad, general policies?

Interjection: They'd be in the official plan.

Mr David Johnson: So they'd be on top of that again; there's sort of five levels, is that correct?

Mr McKinstry: I guess you need to think of the instruments flowing one from the other. The local plan is required to be conformed to by the regional plan. Both of them are required to be consistent with the policy statements. Therefore, the builder, in doing a development application—there would be some sense that in fact all of these documents would not be contradictory under the act and therefore they could be fairly confident that when they look one to the other, what they'd be seeing is a greater level of detail rather than some different requirements.

Mr David Johnson: I assume they wouldn't necessarily be contradictory, but they could well be different and they may go beyond being just a further detail of the next one up or down. It's quite possible that it would have five different sets of criteria or standards or policies to go through: local planning, regional planning, provincial policies, provincial principles, and what could be another set of policies—I guess you call them broad policies—in addition to that again, called regional policies?

Mr McKinstry: Yes. Section 2 is for the decision-maker to keep in their mind. The developer is unlikely to be thinking of the broad principles in section 2. The developer will be thinking about the application being consistent with the policy statements and the local and regional plan. The act does require conformity to those plans, so the law says the local plan has to conform to the regional plan. Therefore, if the municipality is obeying the law, then the developer would only be looking for some further detail at the local level.

1450

Mr David Johnson: It sounds like a lot of red tape to go through.

Mr Wiseman: I just want to see if I have this now, and you can help me out again. Basically, what you're saying is that this section applies to the municipalities and the regional governments when they're creating their official plans. If I as the home builder get the official plan and I look at it and I decide whether I'm going to buy that piece of property according to what's in the plan and I buy the piece of property according to what's in the plan and I come forward with a plan of subdivision based on what's in the plan, I really shouldn't have too many problems, should I?

Mr McKinstry: If the plan is consistent with the policy statements, that's right, and that's the intent.

Mr Wiseman: Now, if I come forward with a plan of subdivision or a request for official plan amendments, that's when I'd better be aware of all these other things, because then the council can say: "We have an official plan. We created it. You bought on the basis that you knew what was in the official plan, so why are you coming forward with us now to change the densities or to change the commercial-industrial designation on this when we've already done all that work?" So really, the

time that this could become onerous on a home builder is if they want something other than what has been approved. Then they have to be aware of what they're asking for, because it may change and it may impact on the policy statements. Do I have that?

Mr McKinstry: They would certainly have to be aware if they wanted a change to the official plan document or the policy statements, yes.

Mr Wiseman: Okay, so that's pretty simple.

The Chair: We're ready for the vote. All in favour of the amendment by the Liberal member? Opposed? That amendment is defeated.

A PC amendment?

Mr McLean: It being identical to the previous one, in the interest of time I'll withdraw that amendment.

The Chair: Very well. A Liberal amendment.

Mr Curling: This is to subsection 6(2) of the bill, subsection 3(5) of the Planning Act.

I move that subsection 3(5) of the Planning Act, as set out in subsection 6(2) of the bill, be amended by striking out "shall be consistent with" in the fifth line and substituting "shall have regard to."

You have heard over the time we went around the province that they felt that "have regard to" is much more in line with empowering the municipalities to develop their own policies but "consistent with" showed somehow that they have to conform fully with the policy and left no kind of leverage for the municipality in that regard.

It was said, I think, that about 95%, a whopping majority of the people, wanted that changed to "shall have regard to." It is just in conformity to what we're hearing. We're in full agreement with that being changed to "shall have regard to" instead of having "be consistent with."

Mr Hayes: Of course, this government has been consistent all the way through, right from the beginning, that we will keep "be consistent with"—

Mr Curling: Being wrong.

Mr Hayes: —in this legislation. As a matter of fact, Mr Sewell this morning—many of you watched the press conference—got up and just gave stronger support than ever that we should stick to "consistent with" because he said there isn't much sense in having policies if you're not going to be consistent with them. So we have not changed our mind on this.

Mr Curling: But I hadn't completed, and he had started to respond to it.

Mr Hayes: No, it was my turn to talk.

The Chair: He's the speaker now on the list responding to this issue.

Mr Wiseman: I think all the members of this committee have been on the road and have heard what I've had to say with respect to this section. We heard from a number of groups like Save the Rouge and the group from up north and a lot of ratepayers' associations and other environmentalists who believe that at the very minimum it should be "consistent with." We even had one amendment that said, "shall be consistent with and

conform to" as the suggestion for an amendment to this section.

My own personal position on this would be that "will conform to" would be a better phrase than "shall be consistent with." But for the sake of compromise and to show that I'm a reasonable fellow, I will support this section "shall be consistent with," knowing that there are large numbers of people out there who want to have the balance of power addressed in terms of being able to have input into decisions that are being made in the community.

Mr Drummond White (Durham Centre): I'll pass. Mr Wiseman's spoken very eloquently.

Mr Curling: Before I was stopped, I wanted to develop the other aspect of it too. As the parliamentary assistant said that he wants to be consistent, I will then say that this is a good system, to say that we will be consistent to the legislation. Why is it, then, that other ministries and Ontario Hydro are not "consistent with"? Now you have that they will have "regard to."

The fact is that we feel very strongly that Ontario Hydro would have a vested interest; other ministers too, so all ministers. If you have legislation, let's not have some legislation for some ministers or ministries and some agencies and another aspect of it interpreting the legislation for others. I would say, why don't you be consistent, then, and have that they should be "consistent with" or change it all to have "regard to"?

Mr Hayes: I don't want to jump ahead of the legislation, but you'll see as we go on in the legislation that your concern about other ministries being consistent with will certainly be dealt with.

Mr Curling: So it would have to be changed. You're saying, then, that Ontario Hydro, all the ministers and all the ministries will be "consistent with"?

Mr Hayes: That's right. That's what we've got here.

Mr Curling: So that's one point it helps, but the other argument—

The Chair: Are you going back on the list, Mr Curling?

Mr Curling: No, he was trying to respond to my point.

Mr Hayes: Simply because we have listened to the public out there, and we've also listened to the opposition members.

The Chair: Very well. Okay.

Mr Curling: No, he was responding to and trying to define—

The Chair: Okay, Mr Curling, you go right ahead. We're going to stop the dialogue, though, however. Go ahead. First, make some comments.

Mr Curling: So the first point is what you said you're going to bring later on, which you don't want to discuss now, that everything else would be "consistent with."

Mr Hayes: Consistently in order.

Mr Curling: In order—oh, you'll be consistent in order. But the other argument was made that "consistent

with" seemed to bind them into just the policy and there's no flexibility at all for the municipality to be creative.

Mr Hayes: Not so.

Mr Curling: The words "have regard to" would make it easier for them to develop their own policy, of course having regard to the policy of the province.

Mr David Johnson: Could I ask the parliamentary assistant or the staff, what is the difference between "be consistent with" and "be consistent with and must conform to" from the point of view of Municipal Affairs?

Mr Hayes: Well, I would just say to that—"be consistent with" and "conform to"—I think "conform" probably sounds a little bit stronger than "be consistent with." In other words, I think, as Mr Wiseman would like to have in there, it's stronger language to make sure that the policies people do that.

1500

Mr David Johnson: I appreciate Mr Wiseman's desire, but I fail to see the difference between the two. If you must be consistent with something, then I don't know how you could fail to conform to it. In other words, it is a directive, it is a must. "Thou shalt not stray one millimetre." This is it or nothing, that sort of thing. Beyond being consistent with something, I don't think there is anything.

Mr Hayes: I think this particular amendment does not even address "to conform with." So I don't know why we're even discussing "to conform with," because one member made a comment. It's not in this amendment. The only thing we have in this amendment is saying that you want to strike it out and change it to "shall have regard to." It doesn't say anything in this amendment about conforming.

Mr David Johnson: Can I explain, then, why I asked the question; because municipalities will wonder precisely what this means. If it's the government's view that this does not mean total compliance to the policies, I think we should know that here at this point. From Mr Wiseman's comments, I gather he doesn't feel that this would necessarily lead to total compliance with the policy statements.

Mr Wiseman: That's right.

Mr David Johnson: He's confirming that by his nodding head and "That's right" comment.

Mr Hayes: So in other words, he's saying there's flexibility there, is that correct?

Mr Wiseman: That's what we're saying, yes.

Mr David Johnson: That's apparently what Mr Wiseman is saying, and I'd like to know the parliamentary assistant's views on what flexibility the municipalities do have with the words "shall be consistent with policy statements."

Mr McKinstry: In terms of the definition of "be consistent with" and what it actually means, what we're doing is working with the implementation task force to get a common understanding among stakeholders of how this will actually work in practice so that the guidelines will address to some extent the kinds of things that the

government has in mind for "be consistent with."

But there is a difference between "conform to" and "be consistent with." "Conform to" is talking about making the same, corresponding to or bringing oneself into conformity. "Be consistent with" is much more addressing in accord with or in harmony with and gives much more of a level of flexibility.

Now, the Sewell commission did a lot of work on this point and had a lot of discussions. They felt that there were actually three different stages or three different levels: regard, consistency and conform. They felt that "consistency" struck the right balance.

Mr David Johnson: What puzzles me a little bit is that if there are a handful of words that have caused controversy in this whole debate, in this whole study, it would be the words "shall be consistent with," four words, I suppose. While I recognize that the government is being responsive to a number of the concerns that have been raised, surely a clarification of those words through this whole process up to this point and precisely what they mean to the municipalities would have been the number one thing that could have been done to set the minds of municipalities at ease. Perhaps comment on that, number 1. But, number 2, I gather what you're saying is that in the regulations, then, there's going to be some definition of the words "shall be consistent with." Is that what you're saying?

Mr McKinstry: I was talking about the implementation guidelines of the policy statements, which are being developed in conjunction with the task force.

Mr David Johnson: When would we expect those implementation guidelines?

Mr McKinstry: They would be released at the same time as proclamation of the bill.

Mr David Johnson: In January?

Mr McKinstry: In January 1995.

Mr David Johnson: Is there any particular reason, in view of the fact that there has been so much concern expressed about those words, why that definition, if I can use that phrase, wouldn't come out before consideration of this bill so that municipalities and builders and everyone who's concerned about this phraseology would know what it means and perhaps could put their minds at rest before the bill was passed?

Ms Perron: Just as a point of clarification on the legal drafting, when the idea is proposed, our role in drafting legislation is to make sure that the terminology is clear. But if the terminology that's to be used in legislation is not to have a different meaning from the meaning of the word in its ordinary sense, in the dictionary definition or whatever, then it is not appropriate to define it in legislation. So in this case the phrase "be consistent with" is expected to have its common and ordinary meaning. Perhaps legislative counsel can explain also that it's against drafting conventions to define a word when in fact you want it to have its ordinary dictionary meaning.

Mr David Johnson: Okay. Just for an example, then, to maybe help me because this is really new to me today, the way it was being interpreted was that you must abide

by the letter of the law, the provincial policies, and there's not a millimetre of give in this whole thing. But you're telling me perhaps something different here today. Let's look at affordable housing. There's a requirement now in the policy statement that it be affordable to the lowest 30th percentile of the household income, which I think is up from 25%. The requirement for 30% affordable housing now, I think it was 25% before. If a municipality brought forward proposals that remained at the 25th percentile, 25% affordable housing, would that be consistent with 30%?

Mr McKinstry: The policy statement says "where feasible." So there is some leeway in the policy statement. In terms of where it says that no less than half of the new housing requirement be affordable to the lowest 30th percentile, it's where feasible. That's basically a recognition of the fact that if this needs to be publicly funded, you've got to worry about whether there is money for the public funding. So there is some flexibility within that statement of the policies.

Mr David Johnson: Let's look at another part of the policy statement, policy statement B, looking at clause 9 on page 8, where it says, "Extensions to the settlement area will be permitted only if the following conditions are met...." That doesn't say "wherever feasible" in that one; it says, "extensions to the settlement area will be permitted only if the following conditions are met...."

Are you saying today that because the phrase "shall be consistent with" is not absolute, I think is what you're saying here today, that there could be some exceptions to the conditions that are under clause (b), whereby there could actually be an extension to a settlement area that doesn't meet these criteria?

Mr McKinstry: If you read the policy under number 9, it talks about, "the amount of land included within extensions is justified." So what we're really looking for there is for the municipality to go through a justification process. By its very nature there's flexibility there, because the municipality has to justify it; it has to develop population projections, it has to indicate how much land it needs. So that, by its very nature, is a dialogue that has to take place with ratepayers, with the municipality, with other ministries.

Mr David Johnson: Who would be the arbitrator of the justification in that case? Who does the municipality have to justify the extension to?

Mr McKinstry: The body that will be approving the official plan amendment that will permit it; so it could be the province, it could be an upper tier, it could be a region, it could be a county. It could be the OMB.

Mr David Johnson: It could be the OMB. In the case of the province, would the province exercise some latitude, then, based on the fact that the words "shall be consistent with"—I don't know what sort of a straightjacket that puts the justification in. Are you telling us that there would be latitude at all similar to the latitude that exists today, or would there be less latitude than exists today?

Mr McKinstry: What has been stated a number of times in this committee as we've gone through the

hearings is that "be consistent with" does allow some flexibility at the local level. What we're doing right now is developing implementation guidelines through the task force, as I said before. One of the things we'll be talking about is how municipalities might do these things, giving some best practices, some examples, ways that their justifications may be carried out, talking about examples of logical extensions, things like that. The implementation guidelines will deal with these issues and put some parameters for municipalities around them.

1510

Mr David Johnson: When we were in Thunder Bay there was a considerable amount of concern expressed that the policies pertain mostly to Toronto, are Toronto-based policies, and that Thunder Bay and northern Ontario are considerably different. Ineed, I suppose many rural areas would consider themselves to be different. I think one of the concerns was that essentially the policy would close down development in northern areas, northern communities such as Thunder Bay that need development, and perhaps in many rural areas even in southern Ontario. Are you assuring us that there will be enough flexibility in areas like Thunder Bay that they won't essentially just close down development whatsoever?

Mr McKinstry: If I could give the committee an example, the wetlands policy statement, for example, has a different approach to wetlands in southern Ontario than northern Ontario. This is in recognition of the fact that there are few wetlands left in southern Ontario, whereas in northern Ontario, as people say, there is little dry land. So there is a recognition within the policies, and wetlands is an example, that there are differences in the way Ontario is to be planned.

Mr David Johnson: In terms of the amount of consistency with the policy statements, will that vary from region to region? Will consistency with the policy statements be applied with the same latitude in Toronto as in Thunder Bay, as in Ottawa, for example?

Mr McKinstry: The test "to be consistent with" is the same, but as we've talked about in this committee before, there is some flexibility for municipalities. It isn't "conform."

Mr David Johnson: Will it be the local Municipal Affairs representative who will make that determination or will it be Municipal Affairs here in Toronto?

Mr McKinstry: If the application is being decided by the minister, it's the minister who makes that determination, and the minister may delegate that. The minister would have to decide how the ministry is organized to deliver it. I can't really answer that specifically.

Mr David Johnson: In Thunder Bay, let's say, again where we were at, if there was a change—they don't have regional government there, do they?

Mr Eddy: It's a one-tier region.

Mr David Johnson: One tier, yes. In that case, if there was, let's say, a zoning application, would it not be Municipal Affairs that would—

Interjection.

Mr David Johnson: No? Who would give approval for that?

Mr McKinstry: Zoning is a municipal matter and the provincial government really does not get much involved in that. If there are no objections, it's just approved. If there are objections, it goes on to the Ontario Municipal Board.

Mr David Johnson: If there were objections, then the Ontario Municipal Board would have to determine if it was consistent with the policies.

Mr McKinstry: That's right.

Mr David Johnson: Okay. Now, if it was an official plan amendment, then it would be who? Municipal Affairs?

Mr McKinstry: The province, yes. Municipal Affairs.

Mr David Johnson: All right. So if it's an official plan amendment, then would it be the local Municipal Affairs in the Thunder Bay region and northern Ontario that would make a determination if it was consistent or would it be Municipal Affairs here in Toronto?

Mr McKinstry: The minister would always be accountable for the decision, wherever the decision got made. As I said, I can't really comment on how the minister would want to organize his ministry to deliver this new planning system.

Mr David Johnson: Have you received any concerns expressed that various regions would much prefer to deal with ministry staff in their own particular region, as opposed to ministry staff located here in Toronto?

Mr McKinstry: Yes, and certainly our regional offices are very important parts of the organization.

Mr David Johnson: But there is concern today expressed that, particularly in Municipal Affairs, decisions are made here in Toronto, and it takes for ever to make them, and they would prefer to deal with Municipal Affairs within the regions. Is that a message that's come through?

Mr McKinstry: Certainly there is that message, yes. I guess the other thing to think about is, many of the decisions would be made locally. The official plan and amendments for Thunder Bay might be decided by the minister, but subdivisions, consents, those kinds of things would all be decided locally.

Mr David Johnson: Last question then: There are policy directives that are on the books right now. Before these policy statements, there were about three or four policy statements, I think.

Mr McKinstry: Four.

Mr David Johnson: I'm just not clear, it's probably here somewhere, but how does this "shall be consistent with" apply to those existing four policy statements?

Mr McKinstry: Policy statements, just for the clarification of the committee, are the wetlands policy statement, floodplains policy statement, mineral aggregates policy statement and housing.

The first three—wetlands, floodplains and mineral aggregates—have been folded into our comprehensive set of policy statements, which look like this, and the policy intent has not been changed. Housing has also been placed into this document, and the policy has been somewhat changed. Those policies are all within the

framework of the comprehensive policy statement.

Mr David Johnson: There are no other policies then outside of the document entitled Comprehensive Set of Policy Statements.

Mr Eddy: Yes, based on preference.

Mr David Johnson: That's true.

Mr McKinstry: There are no policies which decision-makers must be consistent with under the Planning Act. This constitutes the Planning Act policy statements.

Mr David Johnson: I said that was my last question, but now Mr Eddy's prompted me. How does Bill 120, the accessory apartment bill, fit into all this? In a sense that's a policy; I guess you probably don't call it a policy statement, but there really is a policy directive. How does that fit into this whole thing then?

Mr McKinstry: My understanding in Bill 120 is that it's a legislative amendment and that legislation is made and legislation must be obeyed by the citizens of a province. This is a policy directive which municipalities and decision-makers must be consistent with, and I think it is fairly significantly different from Bill 120.

Mr David Johnson: "Must be obeyed" is more strict than "must be consistent with," is it?

Mr McKinstry: Legislation is certainly the strongest method of government control.

Mr Curling: I just want to follow up on that question. If there is a policy statement in regard—and the comprehensive policy is inclusive of that, housing, and 120, the legislative amendment which affects policy on this one, on Bill 163, would that have an impact on this comprehensive policy in 163?

Mr McKinstry: Sorry, I missed that.

Mr Curling: Bill 120 is a legislative amendment which has an impact on basement apartments and, as a matter of fact, to go further, has an impact on the affordability of housing. Bill 163 has within it a policy in regard to housing.

Now, does 120 have an impact on 163, on the comprehensive policy in housing? Would it have an impact on it, the cost of basement apartments and intensification and things like that? Because it would change the Planning Act; it would have to be "consistent with."

Am I making myself plain? I would see that it would have an impact. If you're making changes to the legislation, it would have an impact on this new policy.

Mr McKinstry: Bill 120 implemented provisions in a legislative way from the policy statement passed a number of years ago on housing. However, the policy statement still contains encouragement to municipalities to go further. This is encouragement for them to go further in permitting intensification where the services permit. So they fit together fairly nicely.

Mr Curling: It would change it, though. I think the concern that municipalities have is that if you set up a comprehensive policy, there are amendments to legislation that have an impact on the policy. It seems to me that there are new policies that are going to come in to effect this comprehensive policy from time to time. You named a couple of policies there and—

Mr McKinstry: if I could actually read the provision out of the policy statement, it says, "Small scale intensification will be permitted in all areas permitting residential use, except where infrastructure is inadequate, or there are significant physical constraints. This is in addition to the Planning Act provision permitting certain houses to have two residential units."

Mr Curling: So Bill 120 is consistent with this policy.

Mr McKinstry: Yes. It's mentioned in this.
1520

Mr Curling: There will be other policies that may come in later on, over and beyond the policies we have in that comprehensive policy. It seems to me they are more concerned—and maybe in the next subsection we could talk about that, about new policies coming in. I know you've explained as much as you can, but I still have a doubt.

You can proceed if you want, Mr Chairman, because I don't think I'm going to get an answer.

The Chair: I see no other speakers. We're ready for the question. All in favour of the Liberal amendment? Opposed? That's defeated.

Mr McLean: Subsection 6(2) of the bill, subsection 3(5) of the Planning Act: I move that subsection 3(5) of the Planning Act, as set out in subsection 6(2) of the bill, be amended by striking out "be consistent with" in the fifth line and substituting "have regard to."

The Chair: Mr McLean, speaking to that amendment. There is a word change obviously, as Mr McLean might explain. Go ahead.

Mr McLean: There is one word changed in that. "Shall" has been taken out of that one, and I thought that would make a different motion.

Mr White: Do you think so?

Mr McLean: I thought that we may be able to put the motion and have it carried. He's already voting yes.

Mr White: Mr Chair, I must suggest that this motion is out of order, seeing that it's substantively the same as the previous one.

The Chair: I understand what you're saying, Mr White, but given that there is a change with that word, it does change the amendment quite a lot. Further speakers to this?

Seeing none, all in favour of this amendment? Opposed? That's defeated.

Mr Curling: Subsection 6(3) of the bill, subsections 3(5.1), (5.2) and (5.3) of the Planning Act—before I move this, maybe I could ask a question. You do have that policies will be reviewed every five years now, coming down. At one stage, there were no policy reviews. Now the government is going to introduce a—

Mr McKinstry: Correct.

Mr Curling: Okay. Even with that, I will proceed.

I move that section 6 of the bill be amended by adding the following subsection:

"(3) Section 3 of the act is amended by adding the following subsections:

"(5.1) Other policy directives or implementation guidelines issued by any ministry do not constitute a provincial policy statement or interest as described in this section.

"(5.2) If a policy statement is issued under subsection (1), the minister shall from time to time, and not less frequently than every five years, determine if there is a need to revise the policy statement.

"(5.3) If the minister fails to revise the policy statement or make an order declaring a revision is not necessary within the five-year period, the policy statement is deemed to have been revoked at the end of that period."

Let me just review that, because we just had a discussion a minute ago about what could constitute a new policy. We're saying that from time to time the minister will come out and make statements and say, "That is the provincial policy statement." We want to say, "Are we going to be seeing within the next five years down the road"—you're telling me in this legislation that later on the policy is subject to review. But within that five years, it seems to me, I want to make sure that there are no statements being made that then constitute a new policy statement for this new Planning Act.

Subsection (5.2) is of course, "...from time to time, and not less frequently than every five years, determine if there is a need to revise that policy statement." I presume in anticipation that you're going to use your numbers here and maybe defeat this motion; that if you put a policy in, within two years that policy is also subject to a review within the time of the five-year review.

Subsection (5.3): If you fail to do so—the minister, that is—can revise the policy statement or "make an order declaring a revision is not necessary within the five-year period." In other words, it's kind of a sunset clause.

We want to know that we don't just give them carte blanche and say, "Here we are, we make a policy and it's not for review," and you bring that iron fist down again on the poor municipalities and say, "That's our policy."

We can say that even in defeating this, since we anticipate that your amendment will review in five years, there is some—I don't want to call it constraint, since Mr Wiseman had all his talk about "conform with" and almost handcuffing the municipalities to conform to the policies of the provincial government—but there is a sunset clause that it can be reviewed within that time.

The Chair: Is there any discussion?

Mr David Johnson: Just a question of the staff: The government has some of these amendments coming up, I believe.

Mr Hayes: We do have, yes.

Mr David Johnson: One that I don't think you have coming up is the sunset provision. As a general rule, I would say there are many people out there in the province of Ontario and many people associated with government in general who are increasingly calling for sunset clauses on legislation so that they don't clutter up the books for years and years. I wonder if the government has any basic objection to a sunset provision.

Mr Hayes: When we talk about the policies, we're

talking about sound planning principles and development policies, and of course that's the way they're set out. But while we agree with the five-year review, we do not agree that we should just throw out all the policies that we've agreed with in the first place. It just doesn't make sense to us, rather than review. It makes more sense to review, I think, than just to automatically revoke and throw out policies that may very well be very effective at that time and in five years. There isn't much sense in doing that.

Mr David Johnson: I'm not so sure that what you're saying is contradictory. It's just basically saying that if you do the review, which you're agreeing—

Mr Hayes: No, I'm not saying that at all. What I am saying is that just because we haven't reviewed it or the minister hasn't reviewed it immediately—what you're suggesting here in this resolution is that we just throw them out the window, and we're saying we prefer to review rather than just throw them out. If it's necessary to revise and make changes, then I'm sure it will be done at that time.

Mr David Johnson: It does demonstrate a commitment on behalf of the government to actually do the review. I just thought you may wish to show that commitment by accepting the sunset clause.

Mr Hayes: We have an amendment to deal with this, and I think it will certainly meet the concerns of the public and others who had concerns about the review.

Mr Eddy: I support the amendment of course because it has several advantages, and one is that it's not only a commitment of the government, it's forcing the minister to do something. As you know, governments change from time to time.

Ministers change sometimes even more frequently than governments, and you may have a minister who really doesn't want to open up a policy statement, and yet there may be considerable public discontent with it, or a necessity indeed to review it, and it shouldn't be glossed over or just forgotten.

1530

No policy needs to just disappear off the books; the minister reviews it. It gives the minister the opportunity to say: "This needs to be reviewed within this time frame. It must be reviewed, and we'll call for some public input. We'll discuss it with AMO or with the municipalities." I think it's an exit.

Sunset clauses are really good. This is what you might call a beautiful amendment, because it does have the sunset clause in there and it means that the minister and the government must review the planning policies that are there. I think it should be supported.

Mr Hayes: "The minister shall."

Mr Curling: I just want to raise this point, and it seemed to be missed. If the minister fails to revise the policy—no one is saying, "Let's throw it out"—what we are trying to say, and which the parliamentary assistant has said quite a number of times and I fully agree with him, is that things change and the municipalities change and sometimes they want their policies changed with it. Therefore, if the minister fails to revise that policy, what

we are saying is sunset that. When he made mention of the fact that we just can't throw out something like that because—we're saying, if he fails to react, if he fails to be sensitive to the municipality, if he fails somehow not to want public input, as he said, to empower, if he fails to see that empowering the municipality is a way of hearing their advice, then what we do is, the policy statements would be deemed to have been revoked at the end of that period.

I'm going to appeal again to the parliamentary assistant, who has the ear of the minister and, of course, to the big bureaucracy that helps them to draft this wonderful legislation, to let the minister be accountable to that municipality. Let the minister be put in a position that he can have input from the municipality. If he fails to do so, those would have been deemed to be revoked at the end of that period.

Mr Hayes: Actually, we are not doing anything differently here than what we are asking the municipalities to do when they review their official plans. We don't have a sunset clause put in there for the municipalities either. I just look at this. I know the intent is to try to assure that the policies will be reviewed, and we'll be meeting that, but just to say, "If you haven't done that immediately we're going to revoke it"—I'm sorry, that to me is not being very responsible.

Mr Eddy: It's just that it says, "If the minister fails to revise the policy or make an order declaring the revision is not necessary within..." the time frame. It's a protection. The protection is built in.

Mr Hayes: We have a protection in the amendment here and it says that "the minister shall," and if you'll be patient we'll get to that.

The Chair: Are there further speakers? Very well. Moving on to the vote, all in favour of the Liberal amendment? Opposed? The amendment is defeated.

The PC amendment.

Mr McLean: It being the same as the Liberal amendment, I'll withdraw it.

Mr Hayes: I move that section 6 of the bill be amended by adding the following subsection:

"(3) Subsection 3(6) of the act is repealed and the following substituted:

"Advice consistent with policy statement

"(6) With respect to any planning matter under this act, the comments, submissions or advice provided by a minister or a ministry, board, commission or agency of the government or Ontario Hydro shall be consistent with policy statements issued under subsection (1).

"No restriction

"(7) Nothing in this section affects nor restricts the minister in prescribing any matter to be a matter of provincial interest under section 2.

"Deemed consistency

"(8) An official plan or part of an official plan approved by an approval authority or the Municipal Board after this subsection comes into force shall be deemed to be consistent with the applicable policy statements issued under subsection (1).

"Non-application

"(9) Subsection (8) does not apply to,

"(a) an official plan or an official plan amendment adopted before subsection (8) came into force; or

"(b) an official plan amendment requested by any person or public body before subsection (8) came into force, whether or not the official plan amendment is adopted.

"Review

"(10) The minister shall, at least every five years from the date that a policy statement is issued under subsection (1), ensure that a review of the policy statement is undertaken for the purpose of determining the need for a revision of the policy statement."

I am sure that will address everybody's concerns to make sure that all the ministries are consistent and that the minister shall, at least every five years from the date of the policy statement, review it.

Mr Eddy: I'd like to speak to part of it, and that's the part, of course, that I don't agree with, the "No restriction," subsection 3(7). "Nothing in this section affects nor restricts the minister in determining, declaring or prescribing any matter to be a matter of provincial interest and the procedure followed in so determining, declaring or prescribing under any other section of this act." That is far too broad. We can't—

Mr Hayes: That's a very good question. Mr McKinstry, respond to it, please.

The Chair: Are you asking a question in relation to—

Mr Eddy: It would be helpful if he would, yes.

Mr McKinstry: Yes, that piece has been replaced and that part referred to the declaration of provincial interest. It has been replaced and now it refers to prescribing a matter to be of provincial interest under section 2.

Interjections.

The Chair: Have we received our replacement from their original package?

Interjection: Yes.

The Chair: You may—I'm not sure.

Mr Curling: We want to cooperate as much as possible. Here we are, we had done a lot of homework in doing this aspect, for example, and this came in now. Can we stand this down now so that we can get a chance? This was delivered to us in flight, for all of these amendments coming through. You see we have almost one looking like a Bible here of amendments and we want to make sure these things are consistent with, so could we ask that this part be stood down so we can digest it better?

Mr Hayes: If I may, Mr Chair.

The Chair: All right, Mr Hayes, go ahead.

Mr Hayes: I appreciate what Mr Curling is saying, but to say it was just dropped there—my understanding is that you had received that at 10 o'clock this morning, the information on that.

Interjections.

The Chair: It was actually delivered this morning to all of us. We may not have put the replacements into the

package, but we all got them.

Mr Curling: Mr Chair, we weren't sitting down idly when he dropped this at 10 o'clock.

The Chair: Mr Curling, I appreciate that. Let me ask to see whether there's unanimous consent to stand it down, all right?

Mr Curling: No, before you have unanimous consent, let me just explain. The fact is that when the new set of amendments came in, we had thought to organize ourselves within that time and while we appreciate that amendments will be coming in by the second every time, we have to somehow put them in a form of—

Interjections.

Mr Curling: No, it's true, because here we are now reading that section and of course the clerk was right on time in dropping that at 10 o'clock. But we are just about getting our sets formulated and we were reading the one that was not in place yet and he said, "It's replaced." We had no chance to read that and the parliamentary assistant is telling me now it was dropped here from 10 o'clock this morning and we should have read it. We'd like to caucus this matter.

Mr Hayes: Mr Curling, you're saying that the amendment you received before—you didn't have a chance to study it?

Mr Curling: We did.

Mr Hayes: In other words, what we've done here is that you studied that and, of course, Mr Eddy is saying it's way too broad. We took out—

Mr Curling: We don't know.

Mr Hayes: We took those things out that really will address Mr Eddy's concerns. So if you've read all that—Mr Eddy, I'd like—

The Chair: Mr Curling is saying that I guess he didn't get a chance to see the replacement to the original section and he's asking for us to stand that matter down. Is there unanimous consent to stand this matter down?

Mr Hayes: For when? Until when?

1540

The Chair: You just stand it down. It means you deal with it later on.

Interjections.

Mr Curling: I don't see anything wrong with that.

Mr Hayes: Yes, no problem.

The Chair: Okay, this matter's stood down then.

Moving on to section 7, Liberal amendment. Mr Curling, is somebody moving this amendment?

Mr Curling: I move that section 7 of the bill be amended by adding the following subsection:

"Section 4 of the Planning Act is amended by adding the following subsection:

"(6) Despite subsection (1), the approval authority under section 50 of the Condominium Act is delegated to the local municipality in which the condominium is situate on and after January 1, 1996, and the minister may make regulations prescribing procedures and other matters related to the approval process."

This is again actually empowering the municipality, bringing government closer to the people, and these decisions are not made, as they would feel, at Queen's Park downtown or wherever, but sensitive to the municipalities. We hope that of course the necessary regulations would be then drafted, and the government is pretty good at drafting regulations afterwards, to conform with the matters that are related to the approval process of it.

Mr David Johnson: Could I just have the ministry's reaction to this?

Mr Hayes: This issue right now—I believe it does have some merit in it but at the same time there is between the Ministry of Municipal Affairs and Ministry of Consumer and Commercial Relations some discussion going on really on how to deal with this particular issue. As the parliamentary assistant to Municipal Affairs, that's all I can tell you today.

Mr David Johnson: I'm sorry, Mr Chair, I kind of missed this. I believe this is one of the recommendations that—

The Chair: Mr Johnson, I'm sorry. Mr Hayes was asking whether—he wants to stand this matter down.

Mr Hayes: Yes, I do. I would like to stand this down.

The Chair: Is there agreement to stand this down? Very well, this is stood down as well. Section 8.

Mr Curling: Section 8 of the bill, subsection 14.1(1.1) of the Planning Act: I move that section 14.1 of the Planning Act, as set out in section 8 of the bill, be amended by adding the following subsection:

“(1.1) If a county has approved an official plan or is prescribed to have one, the local municipalities may not establish a municipal planning authority unless the consent of the county council is first obtained.”

I think this is quite self-explanatory and I feel that again it is consistent with—that word that you always like—the empowering of the municipalities. Many people have complained that they have done a lot of work in this and would like to see legislation that comes in to put that out of place. So we say to you that you should support this in that matter and I'm sure Mr Eddy would have a lot to say about this matter, having such great experience in this regard.

Mr Eddy: I try not to have a lot to say about any single subject, but certainly this one does concern me and I think, Mr Chair, you'll recall the many county council representations that we had before us. I think that was the major concern of all of them that appeared and I'm sure all county councils would agree with this. They're really upset about the possibility of their member municipalities dropping out to form alternative planning arrangements. I have no problem with cooperating—indeed I encourage it—with cities and adjoining municipalities, but to allow or to form planning organizations which take area municipalities, constituent municipalities, out of counties, can and would cripple many of the counties.

I think this is only proper, that the county council—the government is encouraging and will be encouraging, I expect, all counties to have land use official plans. I don't agree with that, I think counties should have policy plans. If they have all of the constituent municipalities with

local plans, the county needs input the same as the province sees itself as having to have input into local official plans.

I really see this as a backwards step, going back to the days pre-1983, when the Planning Act of that day was passed. One of the most important features of that particular act was indeed to dissolve planning boards, and many of them were intermunicipal and bring about a more regional type of planning system. The planning boards were seen as usurping the powers of municipal councils and there was a return to having municipal councils and county councils, upper-tier councils, be responsible for planning.

There's been considerable progress. If you feel that entering the official planning is an advantage to municipalities, there's been considerable progress in that regard. Indeed, the counties themselves petition the minister to allow counties to be designated municipalities in the first place so that they indeed could have county official plans. It's a real concern of the county councils out there, as it would be any of the regions in Ontario, to have the minister extract constituent municipalities from the area-wide planning body and to set up another type of planning body with adjacent municipalities.

I do think the matter needs some investigation and some assistance, perhaps, in having or requiring cooperation between separated municipalities and upper tiers. Indeed, that's happening with the formation in many of the counties of county-city or county-separated town municipal liaison committees with indeed some strong terms of reference. That's happened, to use London as a good example in this case, in the London-Middlesex municipal liaison committee. I hope it's still in operation.

Mr Hayes: Most of the things Mr Eddy said are factual.

Mr Eddy: Not all?

Mr Hayes: No, most of it is. I do respect him because he does have a lot of experience, certainly, in municipal issues, but I don't always agree with him.

Anyhow, what I want to say here is that, yes, a lot of counties did come and make presentations and they did have a concern about this issue. That is actually why the government is proposing an amendment to this which will state that the minister shall consult affected counties before approval—the bylaw to establish an MPA to ensure the integrity of county planning has not been undermined. I think Mr Eddy would certainly support that, I hope. I'm sure he will.

Mr McLean: I think you'll see in here today that a lot of the amendments the Liberal Party have are the same ones that we have. The fact is that we took a lot of them from what was recommended by AMO and ROMA, the municipal representatives of this province.

It's unfortunate to me to see that every one of them so far has been turned down, because they're being recommended by the associations. We had several meetings with wardens and municipal people and a lot of input from them and these are some of the things they're asking for. Do they not know better than the government what amendments we should have? We think they do. I

agree with this one very strongly. If this amendment is not passed, as recommended by AMO, then we're certainly wasting a lot of time here, because so far today every one they want has been—there's only one that's been changed, but none of the ones we recommended have been accepted. I find it rather odd that we're being turned down as solidly as we are.

1550

Mr David Johnson: I'm looking at the amendment that the Liberals have put forward and that Mr McLean has essentially put forward. By the luck of the draw, the Liberals' came up first. It says that the consent of the county council must be obtained first, before a municipality could establish a municipal planning authority.

So in this motion, presumably the provincial government would go to the county council and would ask for the county council's position on the matter and the county council would take a vote, and if the vote said, "Yes, we the county council agree," then the province would give authority to the municipality presumably to establish a municipal planning authority. However, if the county council said, "No, we have a structure in place," and for reasons of avoiding duplication or for creating a conflict, perhaps within the planning, the county council said, "No, we feel that planning is being adequately addressed," and the county council said, "No, we're opposed to the municipality establishing a planning authority," then, in that case, according to the motion that's before us, that authority would not be granted by the province to the municipal planning authority. That's pretty clear. I don't think there's any disagreement on that.

However, if we look by comparison with the motion that's upcoming, it simply says "after consulting with the council of any affected county." But I guess the words "have regard to" could be put in here. The words "must be consistent with" do not seem to apply to this particular motion.

I wonder if maybe the parliamentary assistant could confirm to me that under the motion that the government is proposing, the government could ignore the resolution of the county council.

Mr Hayes: This government at least will not ignore the municipal councillors.

Mr McLean: You have so far.

Mr Hayes: Definitely not. We haven't.

Mr McLean: There hasn't been one passed yet.

Mr David Johnson: Would you explain to me then, Mr Parliamentary Assistant, why you use the phraseology "after consulting with," or if that's the case, what you're saying then—I assume since you said it that you believe it—why you have a problem with the motion that's before us right at this point.

Mr Wiseman: Because it doesn't allow flexibility.

Mr David Johnson: Wait a second now. Mr Wiseman says it doesn't allow flexibility but the parliamentary assistant says he doesn't want flexibility.

Mr Hayes: Did I say that? I don't believe I said that at all.

Mr David Johnson: What did you say, then?

The Chair: Let Mr Johnson complete his thoughts and then we'll—

Mr Hayes: It's quite obvious that there are—

Mr David Johnson: It's either a yes or a no. There's not a whole lot of flexibility in yes or no.

Mr Hayes: We get accused of not listening. It's quite obvious that there are members here who don't listen.

Mr David Johnson: All right, try again. Go ahead.

Mr Hayes: What we're saying here is that the minister will consult or should consult with the council of the county and that we do not want—to put it in another way, we want to ensure that the county planning program is not negatively affected. That's why we feel that the minister should be able to sit down and consult with the county prior to just automatically making that decision, because there are cases where possibly we wouldn't be able to have any MPAs if we just arbitrarily did it the way you're asking.

Mr David Johnson: I'm sorry, I don't quite know how to interpret that. My question was, if the county council said, "No, we do not want you to proceed with the municipal planning authority," then in all cases would the government respect that view and would the government then not proceed? Or, as Mr Wiseman says, would there be flexibility? Would you ignore that advice in some cases and in some cases obey that advice? Which one is it?

Mr Hayes: I cannot sit here and make a commitment to you on what someone else may do.

Mr David Johnson: So you're saying that you want the flexibility and to ignore the advice of the county council?

Mr Hayes: No, I'm not saying to ignore the advice at all. I'm saying to you, and I'll say it again, that the minister will consult prior to implementing it.

Mr David Johnson: Then, if this was changed to reflect that "after consulting with," the minister would proceed with regard to the establishment of a municipal planning authority as outlined in the directive from the county council—

The Chair: Your question, Mr Johnson?

Mr David Johnson: If your amendment was amended to establish that the ministry would proceed after consulting with the county council, to be consistent with the—

Mr Hayes: If it does not adversely affect the county planning.

Mr David Johnson: The advice of county council.

Mr Grandmaitre: Are we dealing with the same amendment?

Mr Eddy: No, actually, we're speaking to an amendment—

The Chair: Mr Johnson, please.

Mr David Johnson: The only reason I raise that is—and I think Mr Eddy has alluded to it too—that there is an amendment before us right now which says that the county council must give its consent before the province proceeds. But the parliamentary assistant has indicated

that the government is not going to support that, but rather—

Mr Hayes: No, he's not indicating that whatsoever.

Mr David Johnson: Oh, you are going to support this?

Mr Hayes: No, we're not supporting this amendment.

Mr David Johnson: That's what I said.

Mr Hayes: I think I made that quite clear at the beginning, and I said that we have a motion that's coming that will address that issue, that AMO may not be totally satisfied that it didn't get its amendment word for word. But I'm sure that when they see this one here or they already have—I know some people have and they have not really objected to our proposal.

Mr David Johnson: And the major difference is that your amendment says you only have to consult, but then you could choose to ignore it. I'm putting that part in afterwards.

Mr Hayes: No, if you consult, definitely you're not ignoring.

Mr David Johnson: Then, if you're not going to ignore, why not just use AMO's amendment?

The Chair: I think he's answered your question, Mr Johnson.

Mr Hayes: Several times.

The Chair: I have Mr Wiseman first and then—I'm sorry, Ms Haeck. There are so many who want to speak to this, of course.

Mr Wiseman: Write it down.

The Chair: Yes, of course.

Ms Haeck: I think this is really the nub of the issue. I remember being in Napanee, listening to deputants from Trenton, I believe, who really very strongly indicated that the tricomunity planning area that they wanted did not coincide with the exact boundary lines of the two counties and Hastings wasn't particularly thrilled with it. So here you have sort of the greater Quinte area trying to come up with an innovative planning approach that affects several municipalities that are relatively close together but happen to be situated in two different counties.

With the motion that you've put forward, because the counties aren't necessarily enamoured of it, that kind of work would not take place. Under those circumstances, I think those municipalities should be commended for showing the initiative and undertaking a difficult process where the counties in fact have been less than progressive. So let's give some of those municipalities out there that have this desire to undertake the planning process the opportunity to do it where in fact those county governments may not be totally supportive.

1600

Mr Wiseman: I just wanted to add to that in that I think it would be a real shame that if you had an area where, say, three or four counties decided that a municipal planning authority was a good idea and one didn't, nothing could happen. I think that the compromise offered by the government is a good one in that if there are some really good arguments that could be used for a

county not to be involved in an MPA, they would be listened to and then a decision would be rendered.

But if they aren't good reasons and if for the sake of good planning for all of the counties involved you couldn't do it because of the consent aspect of this amendment, I think you may be losing a wonderful opportunity to be progressive and to move forward. That's the reason that I don't think I could support it, and the same example came to mind that came to my colleague's mind. I can't support this amendment for that reason.

Mr Eddy: I think the two previous speakers have missed the point, from my point of view at least. This says where "a county has an approved official plan or is prescribed to have one," so it's not lack of planning that's going to trigger this. It says very clearly where "a county has an approved official plan," which means all of the municipalities are covered with an upper-tier plan; whether it's one tier at the upper tier or two-tiered, they're covered by an upper-tier official plan "or...prescribed to have one," which means they've got to get to work to have one right away.

I wanted to speak to the point where it's very necessary to have planning cooperation where counties adjoin each other and you might want to have—Mr Wiseman is describing eastern Ontario. I know that concern there and I can see the advantage. I'm very much in favour of planning cooperation. In other words, adjoining municipalities, whether or not they're in the same upper tier, should really, and must, take into their official plan planning considerations so that the areas adjoining have compatible planning. That makes good sense and can and should be provided for.

But if it's good for Trenton—and we're talking about the Quinte area, Trenton, Belleville and the township. It was the township between them that was so strong on it—one township, not the other. The same thing happens in the Kingston area and Kingston township, which is in Frontenac county, adjoining Ernestown township, which has a population of some 30,000 in the adjacent county of Lennox and Addington. If that's the case, what's wrong with Peel, with Caledon in Peel, which adjoins the urban centre of Orangeville, right adjoining? Why wouldn't you let Caledon go out of Peel and go in with Dufferin or Orangeville and why wouldn't you let Tillsonburg, which is in restructured Oxford, go with Haldimand-Norfolk, which is on two sides of it?

What I'm saying is, if you're going to do it for the counties, then you'd better do it for the regions. I'll tell you, there's a strong, strong feeling, and I think we should all realize it and take into consideration across this province that the counties are treated in many cases as second-class citizens. So it's the counties that have an official plan or will be prescribed to proceed to get one that we're talking about. Why should you allow area municipalities in those counties to drop out of the county system or—what is the word that we use in the case of the south and the north withdrawing?—secede from the setup unless you're going to restructure the municipality? You will have across the province of Ontario many urban centres that are on or near regional or county boundaries.

I think what we need to look at is yes, facilitate the planning—and by the way, adjacent municipalities do have the right to comment on their neighbours' official plans. That's been in use for many years and you have to notify your adjacent municipality. Regardless of whether it's a separated municipality or a municipality in another upper tier, you must notify it and take its concerns into consideration when you are or it can appeal it. So there is a mechanism and I think there needs to be a further mechanism, but I don't think this is the way to do it, by letting counties—because the minister says it's fine and maybe the minister is from the Haldimand-Norfolk riding, shall we say, and suggests, "Tillsonburg should be with us and not with restructured Oxford."

You're opening a whole, the expression would be "can of worms," but I can't see why you wouldn't treat counties the same as you do regions, especially those that do have approved official plans or are prescribed to get them.

I hope I've made my point clear to the extent where I'll have some more members joining us on this important vote for the counties. Thank you.

The Chair: I think we're readying for the question. All in favour of the Liberal amendment? Opposed?

Mr Eddy: Oh, God, I didn't talk long enough.

The Chair: That is defeated.

Mr McLean: I move that section 14.1 of the Planning Act, as set out in section 8 of the bill, be amended by adding the following subsection:

"(1.1) If a county has approved an official plan or is prescribed to have one, the local municipalities may not establish a municipal planning authority unless the consent of the county council is first obtained."

The Chair: I'm sorry, Mr McLean. I am just trying to see whether there was any wording change and I didn't note any. So I would rule it out of order, unless you're withdrawing it.

Mr McLean: I'll withdraw it then—

The Chair: Very well.

Mr McLean: —grudgingly.

The Chair: Government motion. Mr Hayes.

Mr Hayes: I move that subsection 14.1(2) of the Planning Act, as set out in section 8 of the bill, be amended by adding after "minister" in the third line "after consulting with the council of any affected county."

I think I've made our position quite clear several times, Mr Chair.

Mr McLean: "The council...shall not pass a bylaw under subsection (1) unless the proposed bylaw is approved by the minister." I thought you passed a bylaw before you got the approval of the minister. Isn't that what subsection 14.1(2) says, "approval of bylaw"? "I move that subsection 14.1(2) of the Planning Act...." Aren't we still on the same—

Mr Hayes: We hear you. We're waiting. We want to make sure we give you the proper answer. I'll ask Mr McKinstry.

Mr McKinstry: If I understand your question, you're asking for clarification on how the bylaw approval works?

Mr McLean: Yes. I am asking how that subsection (2) applies to what you're amending here.

Mr McKinstry: Oh, I see. I think what we're saying is that the bylaw the municipalities propose to form a municipal planning authority must be approved by the minister and the minister must consult with any affected county before approving that bylaw.

1610

Mr McLean: "After consulting with the council of any affected county," so you're talking about abutting counties then.

Mr McKinstry: The affected counties, in my understanding, will be the counties which contain the municipalities that wish to form municipal planning authorities.

Mr McLean: But subsection (2) says, "The council of a municipality shall not pass a bylaw under subsection (1) unless the proposed bylaw is approved by the minister."

Mr McKinstry: I'm not clear what the question is.

Mr McLean: Well, I'm not clear what this is either; that's what I'm asking for. You're talking about 14.1(2) of the Planning Act, and that's on page 5, isn't it, 14.1(2), approval of bylaw?

Mr McKinstry: Right. The way the process in the bill is contemplated is that two or more local municipalities can pass a bylaw to form a municipal planning authority. That bylaw does not take effect before the minister approves the bylaw and our motion would say that the minister may not approve that bylaw until he has consulted with the council of any affected county.

Mr Eddy: I would expect that the minister would consult on the matter without having to put it in an act. I really think that would be a given, considering that the minister is an elected representative in the province of Ontario and represents constituents.

I feel very strongly that this is not strong enough, because what you're really doing is fragmenting the counties and restructuring the counties. At the present time, many counties have county library systems, but the legislation allows municipalities to opt out, and many have, in several of the counties having county library systems. Counties are responsible for county road systems, but because the legislation allows municipalities to opt out in some cases, and especially eastern Ontario, you have many municipalities that are not part of the county road system.

Now we're passing legislation that will allow certain municipalities in some counties perhaps to withdraw from the county for planning purposes. I wonder if there's any support for county government at all. I'm really concerned about it and I have to reiterate that you're treating the counties differently from the regions. You've got to remember that many of the regional boundaries are old county boundaries. I know it's quite different in Durham, where there was Ontario county and the united counties of Northumberland and Durham. They took municipalities and gave Simcoe Rama and Mara and they gave Peterborough county a township and Victoria county a

township and made Northumberland and really made some tremendous changes, perhaps with some good reasons. Allan would know better about that than I would.

Mr Wiseman: We're still looking to find them.

Mr Eddy: No comment on that, of course. I'm really concerned about it and I think there needs to be some extra wording rather than just "consulting" because, as my native friends in my riding say, "The word 'consulting' is used a great deal but it doesn't mean anything." Certainly this is better than nothing, but not much.

The Chair: Further discussion?

Mr McLean: There should have been some consulting on all these amendments.

The Chair: Sorry?

Mr Hayes: That's why we have the amendments, Mr McLean, because we listened to people.

Mr McLean: Absolutely not.

Mr Curling: Earlier on, when we were debating the Liberal amendment, the parliamentary assistant brought into place that this one would satisfy the concerns we have and we'd be happy about that. I anxiously awaited to debate this amendment and I am left dissatisfied with the fact that, as Mr Eddy so eloquently, profoundly stated, what you are doing here is not recognizing some of the things of the county. You're dividing up the counties in this respect.

The problem that we have, and I keep going back to that, is that I want to be consistent with your policy to empower the municipalities. Each time, as we go along, it seems to me that you have handcuffed these municipalities into conforming to just what the province wants and not what they want. Although they tried to say to you, and the AMO has written—I put AMO way ahead of the government in knowing about some of the concerns in municipalities. They have made a lot of recommendations in this regard and you have completely ignored them.

I don't want to get into a shouting match with the parliamentary assistant, but I appeal to you, why would you not go along with what was said previously? I know we can't go back to the previous motion, but if the counties already have the official plan, you recognize them, and they don't have to form another planning authority unless the consent of the county council is obtained.

I feel you have not satisfied me in this motion. I hope you would consider that and make some amendments recognizing what we're saying here. In the meantime, it seems to me, while I'm appealing to you, and the Chairman himself would agree with me, the parliamentary assistant may have a comment on this matter.

Mr Hayes: Just very, very briefly, this government or this ministry would not go and implement municipal planning authority unless the county requested it, the local municipalities. I think that's really contrary to what was just said, how we are taking away from them. We are saying to them that—

Mr Grandmaître: So you're not giving the counties that power; you're leaving it in the hands of the ministry?

Mr Hayes: No, I didn't say that. If they want to request, that's where it's at.

Mr Gary Wilson: I just wanted to say, in part in response to Mr Eddy's sensitive account of the history of some of the changes that have been taking place with counties, but also of course the importance of the county system, there still has been a development. You cited some of the places in eastern Ontario, and as Ms Haeck pointed out with Sidney township, the same thing is happening along there that is occurring in Frontenac county with the growth in the southern part of it. There has to be some response to that which I think even the county would accept. That's why I think this is a good approach to it. Certainly the adjacent municipalities are going to have a lot of similar issues to contend with and there is going to be some movement or at least some cooperation there in one form or another which I think they might want to codify in consultation with the ministry and with the county.

Mr Eddy: Just a brief comment: I agree with what the speaker said, but also I think that can be done without extracting a municipality from its upper-tier legal government structure. I also would like to point out that by extracting it then it means that it's not planning with the other adjacent municipalities in the county. You're extracting it out. Thinking of the specific example, Sidney township, then it would not be planning with the municipality to the north or to the west, I guess it is; I've forgotten the geography.

The other thing that I wanted to mention specifically, and I guess maybe it has to do more with the next amendment, is that the county of course can take on the responsibility for financing sewer and water services in a county, and certain other services.

The Chair: All in favour of the government's amendment? Opposed? That carries.

A Liberal amendment.

Mr Curling: I move that subsection 14.3(5) of the Planning Act, as set out in section 8 of the bill, be struck out.

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Mr Eddy: This is a difficult one now. If you allow a municipality or one or more constituent municipalities in a county to withdraw, the question is, should they continue to pay or contribute towards the planning program in that particular county? I think it was pointed out by some of the presenters that this certainly will adversely affect planning in that particular county, especially if they haven't proceeded to date with an official plan.

It's a concern. I don't know how it's going to be dealt with. If you allow them to withdraw, do you require them still to contribute some of the finances of a county planning program? I think it's a dilemma that the government will be faced with, so we propose the amendment, but I don't expect it will pass any more than the other one.

Mr McLean: I want a clarification from the minister with regard to "the Municipal Act shall not include an amount required to be raised for county land use planning purposes by a local municipality that is in a municipal planning area." Are you saying that they're not allowed

to levy the county for that planning area? What's your interpretation of that section?

Mr McKinstry: What the bill—

Mr McLean: It's in the bill, the county levy: "If a municipal planning authority has been established, a county levy under section 374 of the Municipal Act shall not include an amount required...."

Mr McKinstry: Counties levy municipalities for various things, including planning, and what we're saying in this provision of the bill is that if the municipalities have entered into a municipal planning authority and are therefore not participating in county planning, they shouldn't have to pay to the county the planning portion of that levy.

Mr McLean: Then why should that section be in there at all?

Mr McKinstry: The reason that section was included is because it seemed unreasonable to require local municipalities that are not participating in county planning and not receiving planning services from the county to pay a planning levy to the county. In fact, we see this as a way of protecting the taxpayer.

Mr McLean: That's clear.

The Chair: All right, seeing no other speakers, all in favour of the Liberal amendment? Opposed? Okay, it's defeated.

A PC amendment.

Mr McLean: I'll withdraw mine.

The Chair: All right, all in favour of section 8 as amended? Opposed? Are there others? Two more, okay. Turn the next page. Government amendment. Mr Hayes, go ahead, please.

Mr Hayes: I move that subsection 14.4(2) of the Planning Act as set out in section 8 of the bill be amended by adding at the end "after consulting with the council of any affected county".

Interjection: Same tune.

The Chair: Same tune, yes. Discussion?

Mr Hayes: We've discussed it several times.

The Chair: Any discussion on this amendment? Seeing none, all in favour of the amendment? Opposed? That carries. Mr Hayes with the next one.

Mr Hayes: I move that subsection 14.8(1) of the Planning Act, as set out in section 8 of the bill, be amended by striking out the first four lines (ending with "68") and substituting the following:

"14.8(1) Sections 2 and 3, subsections 4(1), (4) and (5), 5(1), (2), (4) and (5), 6(2), 8(1) and (3), sections 16, 16.1, 17, 20, 21, 22, 23 and 26, subsections 51(26) and (34), sections 62.1, 65, 66, 68."

Interjection: Bingo.

Mr Hayes: Thank you for your support.

The Chair: Discussion? Mr Johnson.

Mr David Johnson: Could we have a little bit of the rationale behind what this does?

Mr David Johnson: Just so I can sleep tonight with a clear conscience.

Interjection: It's a housekeeping amendment.

Ms Perron: Yes, it is a housekeeping amendment in the sense that, having created the concept of a municipal planning authority, we have to establish all the cross-references that are necessary in the act to make sure they have the authority when they're dealing with official plans or other matters and processes—that they have the appropriate authority.

Mr David Johnson: Sorry, the cross-references for who?

Ms Perron: For the municipal planning authority. Instead of going through the act and adding, where we have "council" or "planning board" the expression "municipal planning authority," this is an easier, quicker way of making those references.

Mr David Johnson: And some of the initial references were incorrect, were they?

Ms Perron: They were incomplete.

Mr David Johnson: Incomplete. I see.

The Chair: Okay? All in favour? Opposed? That carries.

All in favour of section 8, as amended? Opposed? That carries.

Mr Curling: Section 9 of the bill, section 16 of the Planning Act: I move that section 16 of the Planning Act, as set out in section 9 of the bill, be amended by striking out "the prescribed contents and" in the first and second lines.

The Chair: Are you speaking to that, Mr Curling, or is that okay?

Mr Curling: You've moved pretty quickly through all of this.

The Chair: Okay. Other speakers?

Mr David Johnson: Mr Chairman, I'm just trying to find this now. This is in section 16.

The Chair: Section 16, yes.

Mr David Johnson: Can somebody just identify precisely where this is?

The Chair: Page 10. You're right there.

Mr David Johnson: Oh yes, I had my finger on it. Again, I guess this gets back to the old saw about what is to come in the official—we're dealing with the official plan of a municipality and the contents of the official plan, number one. Am I correct?

Mr McKinstry: Yes.

Mr David Johnson: One of the complaints of the municipalities is that more and more they're being directed as to what the contents of their official plans should be. Is this a message that the ministry has heard, that there is a concern that municipalities—we talked a bit earlier today, for example, on Bill 120, which will require all official plans to be changed to recognize accessory apartments, which is not a great delight to a number of municipalities.

Here again we're talking about directing municipalities to contain certain goals or objectives or policies within their official plan and I wonder if the ministry is getting a reaction. Certainly in terms of the municipalities that

are talking to me, and AMO's expressing this, there's considerable concern that municipalities are being directed to have too many specifics and they're losing their flexibility in terms of their official plans.

Mr McKinstry: We certainly have heard from municipalities that they had some concerns with the bill, and they were concerned that—municipalities were not clear enough that municipalities had powers and authorities. The government has responded to that in many, many ways through the motions to try to make sure that municipalities are empowered and they don't have an excess of provincial supervision or overview.

In this case, the Sewell commission recommended very, very strongly, and we also heard people at the committee say very strongly, that we should go much further and say in the act exactly what the contents were going to be. We felt that a regulation would give some more flexibility as times change, as issues change, to be able to respond to municipalities in terms of what should be in their official plans. The regulation is being worked out with municipal representatives on the task force.

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Mr David Johnson: I may be asking the impossible to answer but, in my experience, the local community wants the municipality to have full latitude to be able to deal with local conditions. Yes, there will be people who will demand that the province do specific things, but they're very much in the huge minority, let's say. In any population you will find people who will be in opposition to what a local council is attempting to achieve and, yes, they will come to the government, but their numbers shouldn't be exaggerated, in my opinion, and their numbers I think are very slight. The municipalities and their position much more accurately reflect what the thinking is of the population within the municipality than do a handful of critics that may be demanding very specific standards or guidelines from the provincial government.

I'm wondering if you would comment on that. Have you any way of knowing, when you talk about people demanding that the provincial government set down exactly what the municipalities can contain within their official plan? My assessment would be that it's only a very few people who are saying that.

Mr McKinstry: I don't have the numbers in front of me of who supported the requirement that municipalities have a prescribed content, but certainly I would have thought from my hearing in the committee that it was more than a handful of people.

Mr David Johnson: I'm exaggerating a little bit too, but a vast minority, rather than a handful. I would say it's very much—

Mr McKinstry: I don't know the numbers.

Mr David Johnson: Let me ask you, since we're on clause—are we just on 16 or 16(a)?

The Chair: Section 16.

Mr David Johnson: The whole of 16? Can I deal with 16(a)?

The Chair: The Liberal motion deals with that section, 16.

Mr David Johnson: All right. Let me just ask you then in terms of prescribed contents, which the Liberal motion is suggesting we delete—we'll ask the question again we asked earlier this morning—can you give any indication of what sort of prescribed contents you may be thinking of for the future?

Mr McKinstry: I don't know what the regulation will contain and I don't want to presuppose it, but some examples of things that could be in it would be that the official plan shall contain a map, for example; that the official plan shall address policy statements; that the official plan shall address the planning period for the municipality; that it shall establish urban boundaries. I think we're talking about things that municipalities normally address in their planning program.

Mr David Johnson: Can you tell us the procedure the ministry will follow in terms of determining what will be in the regulations? In other words, do you intend to consult with AMO, do you intend to consult with the municipalities and, if so, in what fashion and what time frame?

Mr McKinstry: What we're doing is—we have three committees: the implementation task force which has representation from AMO, we have the technical committee which has representation from a number of municipalities and we have the rural table which has representation from municipalities. All three of those committees will be vetting, talking about and giving feedback on those regulations.

Mr David Johnson: In terms of implementing the regulations, is there any way that you intend to involve the members of the Legislature as a whole, or will this—in other words, I'm thinking there's bound to be a difference of opinion and it seems to be—

The Chair: Can I ask, are you dealing with this?

Mr David Johnson: Yes, because we're talking about what's going to be prescribed, the prescribed contents in the regulations, and what I'm asking is will there be some sort of opportunity for the members of the Legislature to address whatever you determine as the prescribed contents.

Mr Grandmaître: Third reading.

Mr David Johnson: Will we know by third reading of this bill what the prescribed contents are? I don't think so.

Mr McKinstry: Regulations normally, if I could answer your first question, don't go through the Legislature, so I would assume these would not go through the Legislature. Our intent is to put out the regulations, the implementation guidelines and the proclamation of the bill at the same time in January.

Mr David Johnson: So it's proclamation, and it'll be after the third reading.

The Chair: That's right.

Mr McKinstry: Yes.

Mr David Johnson: So the members of the Legislature would have no opportunity to comment.

Mr Grandmaître: Surprise.

Mr Hayes: No, let me just address that.

Interjections.

The Chair: Mr Hayes, go ahead.

Mr Hayes: It's not a surprise at all because this has been the procedure traditionally for years and years and years. This is probably one of the first times you'll have the regulations in place when you have the legislation in place and no other government has ever done that. I think we have done so well and that's what makes us different. But really back to Mr Johnson, that's why we have the implementation—

Interjections.

The Chair: Order, please.

Mr Hayes: —committee and the task force and all of those people who will certainly have input on the guidelines and regulations. But for us to come here and to try to do it in this committee work—we've got to have maybe a 20-year term or something to deal with these issues.

The Chair: Okay. I think we're ready to vote on this matter.

Mr David Johnson: Mr Chairman, if I'm at the wrong point, just tell me know, but should I ask my question on clause 16(a) now or do you want to take this vote first?

The Chair: I suspect you may want to ask it now.

Mr David Johnson: Okay, it says that, "An official plan...

"(a) shall contain goals, objectives and policies established primarily to manage and direct physical change and the effects on the social,"—and I underline to the parliamentary assistant and the staff social—"economic and natural environment of the municipality...."

There are many official plans out there in the province of Ontario. A lot of the official plans are not necessarily, let's say, within the last few years.

I would suspect that many official plans of many municipalities were created back some time ago and perhaps, although municipalities hopefully try to update them every five years, there are limitations on money and resources and they do the best they can, but many of them may not have comments, for example—what is it here—effects on the social, environmental—comments with regard to social impacts.

What position would that put the municipality in? Would they be compelled within some time frame to go through a new official plan process to ensure that social aspects and environmental aspects, for example, were inserted in the plan, if they didn't have those at the present time?

Mr McKinstry: Municipalities will be required to be consistent with the policy statements, and the decisions that are made in that municipality on development applications must be consistent with the policy statements, and the policy statements address social issues in terms of the fact that they say municipalities should deal with human services issues in their planning process. I don't think this would affect the validity of existing official plans. The municipalities will be required to bring their official plans into consistency with the policy statements, so it would be addressed in that way.

Mr David Johnson: That's fairly important, I think.

You say you don't think this would affect existing official plans?

Mr McKinstry: I'm saying it would not make them invalid.

Mr David Johnson: Would not make them invalid. There would then be no requirement to update an official plan. Many municipalities would not have a social content to their official plans is my guess, but the fact that they wouldn't have it would not make their existing official plans invalid.

Mr McKinstry: The municipalities are required to review their official plans once every five years, and by motions in this package, if they are passed, they will be required to bring them into consistency with policy statements. If they're not consistent with policy statements, what that simply means is the development applications being approved in the municipality would still have to be consistent with policy statements and the municipality would be required under the Planning Act to bring their plan into consistency with the policy statements. But if the plan was approved under the existing act, it would not be invalidated by virtue of this provision.

Mr David Johnson: Municipalities, for example, that were short on resources, municipalities that have very limited funds, very limited opportunity to hire staff to go through another official plan process, are you suggesting that they would not be compelled to immediately go through a new official plan as a result of this legislation?
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Mr McKinstry: The legislation would require them to update their official plans in consistency with the policy statements; they would, that is true.

Mr David Johnson: So they would, then, have to update their official plans to be consistent?

Mr McKinstry: At five years; when the five-year review comes up, then they have to be brought in and made consistent with the policy statements.

Mr David Johnson: What percentage of municipalities do you think update their official plans every five years?

Mr Eddy: They don't have to update them. They have to examine them and decide whether to update or not.

Mr McKinstry: That's right. The requirement by the motion that will be brought in, if it's approved here, would be that they must be brought into consistency with the policy statements but not changed if they are consistent.

Mr David Johnson: Well, I'd like to see what's really going on out there in the real world. My suspicion is that there are a lot of official plans that are well over five years old. If that's the case, then it's the case because to some degree there's a difference of opinion on how to update the official plan, and it's sometimes the case that there's just no money to do it.

So what happens as a result of this bill? That's what I'm trying to get my finger on. Will the Ministry be saying to those municipalities, "Look, you must update your official plan to be consistent with the provincial

policies"? Are you going to be telling them that?

Mr McKinstry: I don't know what the ministry is going to be saying to municipalities in five years, obviously, but certainly the legislation makes it clear, and therefore there is an onus on the municipality to comply with the legislation.

Mr David Johnson: Will there be any kind of funding to municipalities that are now apparently under some greater pressure to update their official plans, because of this bill, to be consistent with the policies? Is there any provision for funding from the provincial government as a result of that extra onus that is being placed on them because of this bill?

Mr McKinstry: The bill makes no provision for funding, no.

Mr David Johnson: No provision for funding, and yet they're required to be consistent with the policies in the sense that they have to update their official plan?

Mr McKinstry: One of the things the ministry has said is that in the new planning system the role the Ministry of Municipal Affairs would take is more one of advice and assistance, and the ministry is certainly interested in working with municipalities to help them with their updates, to help them with their planning progress. I just can't address the issue of what grants might or might not be given.

Mr David Johnson: I suspect they would say help would be mostly in the form of funding, if they're going to demand that official plans be updated. Does the parliamentary assistant have a view on this? Are municipalities going to be compelled to update their official plans so that they will be consistent with the policies, such as the social policy? They may already be consistent with some of the other policies, but the social aspect is reasonably new in the history of Ontario, and I suspect there are a lot of official plans that don't contain the full social consistency. Now, speaking from a political level, will you be expecting municipalities—

Mr Hayes: They're going to be reviewing their official plans every five years.

Mr David Johnson: You'll be expecting that?

Mr Hayes: I think we all understand that, and then of course they'll have to be consistent with the policies, and I think we've made that clear. The other thing is that to ask the staff whether people will be getting grants for this, I think that is always pretty well a political decision that's made. There are municipalities that have received funding to update their official plans in that nature, and there's nothing in here that says that will be stopped or continued. So that is just a decision that would have to be made.

Mr Curling: "Trust me."

Mr Hayes: No, it's what's called being up front and not saying, "Yes, maybe we will." I'm saying to you that those things are political decisions, but there's nothing in here saying that some of the funding and things now will not continue.

Mr David Johnson: What would your government then be looking for in terms of if a municipality sought a grant to update its official plan as a result of this "to be

consistent"? What sort of criteria would you be looking for such that you would be amenable to giving a grant to that municipality?

Mr Hayes: This government, when we talk about any kind of grant, we look at the specific needs of that municipality, organization, whatever we're dealing with.

Mr David Johnson: Are you looking at the financial needs? Is that what you're talking about?

Mr Hayes: Yes.

Mr Eddy: We've certainly had some good discussion about the future and the effects of the new Planning Act. The parliamentary assistant has stated that the regulations will be ready by third reading, I believe that's correct.

Interjection.

Mr Eddy: Oh, I thought you had stated that earlier, taking credit that this is the first time it's happened.

Mr Hayes: When it is proclaimed, of course, that will be very long after it receives third reading.

Mr Eddy: Oh, by the time it's proclaimed, then.

Mr Hayes: Oh, yes, so people will know.

Mr Eddy: Okay. The implementation guidelines will be completed and ready by then too you expect.

Mr Hayes: Yes.

Mr Eddy: Yes, okay, that's some time later, because many people are concerned, and regulations are important with bills. As a fairly new member of the House, I wouldn't agree with any government not producing the regulations in time to be considered with a bill because—

Mr Grandmaitre: Same here.

Mr Eddy: No, really, because you don't know what you're getting in a lot of cases until the regulations are—

Interjections.

Mr Eddy: I have openly criticized former governments on many issues.

Interjections.

Mr Eddy: Yes, sometimes; many former governments even more. However, coming back, I think it's a point that we really need to be cognizant of, and it's especially a concern I would think with many municipalities which are working on or have just completed or are about to complete their official plans.

For the life of me, I've been thinking it would have been really good advice for the Minister of Municipal Affairs to have said a year or so ago, "Do not proceed with an update of your official plan or a new official plan at this time, because there is a new Planning Act, and you're going to have to revise it." I personally think it's quite a change in official plans.

I think that all municipalities which have official plans are going to have to do a great deal of work. It's going to hit those municipalities that don't have an adequate or a large permanent planning staff and have to hire consultants to do their official plans that are going to be required to get with it. I feel really concerned about the municipalities which have done so much work in just updating their official plans and having them submitted and maybe just having them approved. There have been several.

My own township, for the life of me I wanted to say: "Back up and don't proceed. There's going to be a new Planning Act. Why are you going through all these public hearings and meetings to update your official plan? Just hold on to it." But I haven't done that, because I didn't think it was my business, but then maybe I should've. But I really think there's a concern whether or not there can be a financial assistance plan or whether that's being considered. If you've just completed one, you have five years, but if your plan is two or three years old, there are some very serious implications I think here of what we're doing.

Mr Hayes: I think that's right. I think that Mr Eddy has made some very valid points here today. We'll take that message back to the minister.

Mr Curling: Could I say that the message you're taking back, if there is any municipality—

Mr Hayes: Is this a different message?

Mr Curling: No, I just want to be clear that if there is an official plan in place, say a year or two, and they need to be updated to be consistent with this new Planning Act, that there are funds that will be given to these municipalities, because, as you said, we are grappling with this now to even understand not only the legislation but also the amendments that come in every 10 seconds or so. Will these municipalities trying to understand the new Planning Act be given financial assistance to get consultants and all that to bring their official plans up to date to be consistent with the policy that you have so in granite carved?

Mr Hayes: I'm sure that the majority of the planners and the municipal planning people and a lot of the local politicians won't have too much problem understanding this legislation.

Mr Curling: There will be no assistance, then?

Mr Hayes: But if you're saying because of—

Interjection: We'll have problems paying for it.

Mr Hayes: Well, we don't know. The fact of the matter is that I don't think any politician should stand in front of people and say, "Oh, well, yes, you've got a request for money; we're going to give it." Those days are gone. There have to be conditions met, and there has to certainly be a need for it, not just for someone to come along and say: "Oh, well, we think that they need some money. So you be prepared to give it to them."

Mr Curling: I'm not saying that.

Mr Hayes: No. What we're saying is that, certainly with any kind of funding we're talking about, there has to be a need there for it, and I know that the minister will certainly look at that in that manner.

Mr Curling: But I'm not saying that. I'm saying that they've already done their plan, and this new act has come in; that when they examine it, they're not "consist-

ent with." They've spent their money already to get this plan up to date; they've done all their consulting and what have you. I'm saying to you now, would you say to us, as the representative of the minister and the government of the day, that financial assistance will be given to those municipalities that have gone through all of this already and because of your new act are not consistent with this plan? Would funds be given?

Mr Hayes: We see in this act that it could be very profitable to municipalities simply because it will take that much less and that we'll be streamlining the process. The developers will understand up front where they're at, there won't be a lot of delays and I'm sure they'll be able to encourage good economic development in their community.

Mr Curling: They won't get any money, then, or assistance.

Ms Haeck: As I'm listening to the comments, I'm struck by the fact that the different meetings that municipalities have with regard to updating their municipal plan or official plan, in reality none of that work is lost. I understand why you might not want someone to write the formal draft and say that everything is completed, but the reality is that for at least two years, if not longer, discussions about the proposed legislation have been floating around in the province.

I hear from my own municipalities the fact that they're dealing with intensification questions and what have you, and the legislation has not been passed. So I think the fact that the conformity of some plans may not be there, the fact is that those that are in the process have probably got an easier task than those that have something that's 20 years old, as in the case of Huron county, and Huron indicated when they came before us that they felt they had some work to do but they had really and truly already made a great deal of progress and had some strong direction.

So I don't see this in the same way as you do. I think that because the discussions have been going on for some time in fact the regions, the counties and the separated municipalities have a fair idea of what will in fact be required.

The Chair: All in favour of the Liberal amendment? Opposed? That is defeated.

Mr McLean, the next one is a very similar one. Do you want to withdraw that?

Mr McLean: I would liked to have talked about it, but apparently it's not going to do me any good, so I'll withdraw it.

The Chair: Very well. Rather than moving on to the next section, which would obviously take us way beyond 5 o'clock, I would like to recommend that we adjourn.

The committee adjourned at 1654.

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**In attendance / présents*

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Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Johnson, David (Don Mills PC) for Mr Harnick

McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson

White, Drummond (Durham Centre ND) for Mr Bisson

Wiseman, Jim (Durham West/-Ouest ND) for Ms Harrington

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 28 September 1994

Journal des débats (Hansard)

Mercredi 28 septembre 1994

**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

Planning and Municipal Statute Law
Amendment Act, 1994

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Wednesday 28 September 1994

Mercredi 28 septembre 1994

*The committee met at 1012 in committee room 2.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): We have stood several matters down, but one of the matters that we stood down to be dealt with this morning was a government motion, section 6, subsections 3(6) to (10), and that was to give some members an opportunity to review the changes that were there. You have read that into the record, Mr Hayes, so what we'll do is to get the reaction from the members, if there is one. If not, we'll just deal with it. Any reaction from the members?

Mr Allan K. McLean (Simcoe East): There's a "deemed consistency" interpretation in subsection 3(8): "An official plan or part of an official plan approved by an approval authority...after this subsection comes into force shall be deemed to be consistent with the applicable policy statements issued under subsection (1)." What is meant by "part of an official plan approved" and "deemed consistency"?

Mr Pat Hayes (Essex-Kent): Once the official plan is approved, it can't be challenged in the court.

Mr McLean: So does that also go for part of an official plan? If it has been approved, it cannot be challenged in court either?

Mr Hayes: Right.

Mr David Johnson (Don Mills): We're backtracking here a little bit, Mr Chairman, and so this is back to the section—and it's an addendum, I guess—I'm just trying to find it. Can somebody clarify where this comes in again, because this was from yesterday and I guess I'm lost. What page is this?

The Chair: This is section 6 of the bill. It's got a number 16 at the top of the page. That's the one you want to look at.

Mr David Johnson: All right. This is the aspect that's intended that, in addition to the municipalities, local boards, planning boards etc, Ontario Hydro and other boards, agencies and commissions will also have to be consistent with, must be consistent with or shall be consistent with the policies. I was just going over this morning once again, and I think this is germane, AMO's concerns with regard to the "shall be consistent with" policy that applies to Ontario Hydro, to all the boards, agencies and commissions now as a result of this amendment, which I concur with, this aspect of it.

We talked about this a little bit yesterday, but I think we're going to have very little opportunity because we're going to be going by this fairly soon just to discuss this thoroughly. It has to do in AMO's submission with their criticism that extensive studies and reports will be required to satisfy the expectations of the policy statements. To the staff there who look puzzled, this is from AMO's brief. Many of these reports will have to be carried out by municipalities.

Now in this particular amendment we're talking about Ontario Hydro and ministries and boards being consistent, but it's all the same thing. Could you tell us once again what your response to AMO's criticism would be? Their criticism is that to be consistent with the policy statements, extensive studies and reports will be required, and I presume ministries and boards and commissions will have to go through the same process, but particularly for municipalities.

They asked for a cost-benefit analysis to be done by the ministry, but I guess that cost-benefit analysis was not forthcoming. I wonder if that cost-benefit analysis in terms of the cost to the municipalities to go through this process vis-à-vis the benefits, I suppose, that will be accrued—could the ministry staff comment on why the request for a cost-benefit analysis was not pursued, perhaps through the parliamentary assistant?

Mr Philip McKinstry: The ministry did look at the potential cost and the benefits of these policies to municipalities, and we concluded that in fact municipalities already spend a substantial amount of money on planning and that many of these policies are in fact existing policies, guidelines, things that municipalities now take into account in their planning process. Our conclusion was that there would not be significant additional costs for municipalities in implementing these policy statements.

Mr David Johnson: AMO, though, is obviously not of that opinion. AMO, the organization that represents by far the vast majority of these municipalities, is of the

opinion that extensive studies and reports will be required, and I assume by the use of the words "extensive studies and reports" that they're obviously of the opinion that there would be a significant cost to do this. Can you explain why there's a variance in AMO's opinion with the ministry's opinion?

Mr McKinstry: Maybe I could talk a little bit about the process that we're going through now with the development of guidelines. As I mentioned yesterday, there is an advisory task force chaired by the provincial facilitator, Mr Dale Martin, and they are working with AMO, with the development industry and with environmentalists to determine what kinds of studies would be needed, to determine how these would be carried out and to determine how best the policies would be implemented.

We are working with AMO very closely to come up with some best practices and ways in which the policies could potentially be implemented without incurring significant costs.

Mr David Johnson: Can you give me any specifics of how that would be accomplished, how you would do this without incurring costs? The policy statements are here in a booklet, so they're set, and the municipalities must be consistent with these policies. I gather, although it was kind of hard for me to understand what the response was yesterday, that municipalities are expected to revise their official plans to be consistent with these policies. How do you get from A to B without incurring significant costs? Can you give me some specifics of how you intend to reduce these costs?

1020

Mr McKinstry: Maybe I can use some examples. One example is the wetlands policy statement, which is already in existence and will continue to be in existence, and it is true that the developer who wishes to develop in or near a wetland will have to carry out studies. These studies are already part of the process.

Another example that I can think of is the protection of significant natural areas. What we've done there in the policies is talked to the fact that municipalities will be the ones to define them, so the municipalities will define these areas. Many municipalities are already doing this kind of work, and I can cite, for example, the region of Waterloo and the region of York.

Before our policies have come into effect, there are municipalities that have recognized the value of this kind of activity, and what their development of these natural area definitions means is that they also have some control over the kinds of work that needs to go into protecting the natural areas. So we are giving them some input into that.

Mr Alvin Curling (Scarborough North): I presume we're dealing with section 6, subsection 3(6), the one just stood down. Is that it?

Mr Hayes: Yes.

Mr Curling: Subsection (8), "deemed consistency," says, "An official plan or part of an official plan approved by an approval authority or the municipal board after this subsection comes into force shall be deemed to

be consistent with the applicable policy statements issued under subsection (1)."

In other words, if any municipality has an official plan in place, say in two years, something like we were talking about yesterday, once it has an official plan two years or so ago and this comes into effect within the next year or so, you would say that it would be regarded as an official plan and cannot be appealed in any way and it would be considered as consistent with the policy.

Mr McKinstry: If I get you right, what you're saying is, if an official plan is approved after—

Mr Curling: No, it's approved already. They have an approved plan now, which is about two years running, and this new policy comes into effect. You're saying that, regardless of what it is, it is considered consistent.

Mr McKinstry: No. It's for official plans after the new legislation comes into force and the policy statements come into force.

Mr Curling: But the official plan is in place now in a municipality and it's running two years.

Mr McKinstry: It would not be deemed to be consistent with under this.

Mr Hayes: After this comes into force.

Mr Bernard Grandmaitre (Ottawa East): It would have to be amended.

Mr Curling: It's not deemed consistent. But when I read this, this is where the problem is: "Deemed consistency: (8) An official plan or part of an official plan approved by an approval authority or the municipal board after this subsection comes into force shall be deemed to be consistent with the applicable policy statements issued...." You're telling me now it is not considered consistent. If this policy comes into place and the other official plan was in place two years ago, it's deemed consistent?

Mr McKinstry: No, it isn't.

Mr Curling: So we go back then. Who is going to bear the cost of all those amendments of people who are following the rules that government has set down before? Here are these groups who have to then bring themselves into consistency. How would those municipalities deal with that if there is a cost?

Mr McKinstry: First, they have five years to bring them into consistency. Second, as I mentioned before, the planning is an ongoing activity for municipalities, and most municipalities review and update their plans on an ongoing basis. In the government's view, the bringing into consistency with the new policy statements would be part of that ongoing activity, remembering that there are actually very few brand-new policy areas in this package. Most of the areas—the housing policy statements, the wetlands policy statement—are policies, or there are existing government guidelines which are being implemented by municipalities.

Mr Curling: I'm kind of a bit lost in this. Help me along. If a plan is only a year in place and a municipality has brought its plan up to date, they have five years, you said, in which to bring it up to date to this new plan.

Mr McKinstry: That is correct.

Mr Curling: However, your policy will be reviewed every five years, therefore, there is a time difference here that they would have started a year and you will be reviewing in five years, so they would have to bring theirs up to date before you review your policy.

Mr McKinstry: They would also have a further five years after any changes to our policy to bring their plans into consistency with the new policy.

Mr Curling: This is to the parliamentary assistant because maybe the government of the day and the political force will say, "We understand the difficulty we have placed the municipality in and any extra cost that it will necessitate in your bringing this plan up to date to be consistent with will be offset by the government." There is some money flow, you know. It costs them to bring it up to date. Will that be forthcoming?

Mr Hayes: I think I answered that question yesterday. I cannot make a commitment. There is the possibility there. We don't know how much of a difficulty, as the member is saying, this may put the municipalities in. I think we have to look at, like I said yesterday, the need, and we also have to look at the circumstances of that particular time when they start to make these changes. Some may be very little, some may have to do a lot. We don't know that at this point.

Mr Curling: Let me tell you then how understanding I am. I understand from the bureaucratic point of view their limitation. I understand from your point of view your limitation that the minister hasn't shared very much with you also. But I want you—

Mr Hayes: It's not so that the minister hasn't shared with me.

Mr Curling: Okay, the minister has shared a lot with you, but you're telling me you can't promise. I want you to understand our limitations too. Most of what we are trying to do here is to bring the law up to date and to be efficient without regulations. Because most of the real meat of it is in regulations and we are speaking without any regulations here now. If you had quite a few of the things in here, instead of having it in regulations, maybe most of these questions I'm asking you would not be there.

You're saying you can't promise me. I don't want you to promise me anything. I just want to say, what would those municipalities have to do if there's a cost involved to bring their plan in consistency with the official plan, with the policy of the government?

Mr Hayes: I guess what a municipality would do is exactly what they would do now if they needed financial assistance for any kind of program, and that is to request it. It's simple.

Mr Curling: Mr Parliamentary Assistant, this is the problem that businesses have too, that they set up their business—

Mr Hayes: Look, look, look.

Mr Curling: No, let me just—

Mr Hayes: No, I'm not going to sit here and listen to you ramble on about if we're going to pay these people. I don't know that.

Mr Curling: So you think it's rambling and rambling. I'm trying to put you—

Mr Hayes: You're trying to put me in a position to say, "Yes, we will come up with financial assistance," and I cannot say that. Okay? Do you understand that? I don't have the authority to sit here and say this government is going to give money to municipalities. I don't have that authority.

Mr Curling: It is the government that put the municipalities in the position of changing policies. It is government that put businesses in the position in a way, that is, you changed the law and they want them to conform. I'm saying to you, the difficulty you place these municipalities in or business people in is what the government is going to do. I'm asking you. I didn't ask the bureaucrats because they all have instructions—

Mr Hayes: Mr Chairman, I gave the same answers yesterday about three times and about three times again today.

Mr Curling: In other words, you refuse to answer.

Mr Hayes: The member has his answer.

The Chair: He has answered, Mr Curling.

Mr Hayes: If the municipality needs financial assistance, the municipality will come to the provincial government and request that. That's normal. There may be grants available at the time.

Mr Curling: I get your answer. You don't care.

Mr Hayes: I cannot say what is going to happen six months or one year or five years from now as far as who is going to pay what.

1030

Mr McLean: Dealing with the comprehensive set of policy statements, item 7 says: "Nothing in this section affects nor restricts the minister in prescribing any matter to be a matter of provincial interest under section 2."

If you were a developer or if you were a group of citizens and wanted to have some input into a development, there's nobody sure of anything here because the minister can interrupt or change at any time what he deems to be a matter of provincial interest. What guideline is it that's laid down where somebody knows what they can do without the minister coming in and prescribing any matter to be a provincial interest, because this is in this resolution?

Mr McKinstry: This discussion goes back to the one we had yesterday on the function of section 2, the provincial interests that are set out in section 2. As I said yesterday, these are broad, general, good planning principles which decision-makers under the Planning Act should have regard to in making planning decisions, and the reason that the government has suggested that we prescribe additional matters from time to time is to cover any new and emerging issues that may happen. This is not the same as policy statements. Policy statements have a way of being consulted on through the Planning Act and that consultation would take place if there were changes, and the policy statements, of course, decision-makers must be consistent with.

Mr McLean: I guess my final question is, why

should the minister have all this power like he's got? He can make anything a provincial interest that he wants. Why should this section be in there?

Mr McKinstry: In fact it's not the minister who could prescribe on his own; it's the Lieutenant Governor in Council. The act would require the Lieutenant Governor in Council to pass this regulation.

Mr McLean: I know how that works too. I mean, if the minister asks for it and it's passed by cabinet, it's an order in council, so the minister still ultimately has all this power that nobody developing a subdivision has any control over. They can stop him at any time. Would that not be correct? Would my observation be right?

Mr McKinstry: I didn't quite catch the question.

Mr McLean: The minister can stop any development at any time that he wants. All he's got to do is deem it a provincial interest.

Mr McKinstry: The minister could pass a regulation deciding on a provincial interest if it went through the normal Lieutenant Governor in Council process. However, this is a matter which decision-makers would have regard to, which is quite different than the policy statements, which are more detailed and which decision-makers must be consistent with.

Mr Grandmaître: The fact is that once this bill is in place, let's say January 1, 1995, this will mean that no municipal official plans will be consistent with Bill 163, because the new guidelines, the new policies, the new regulations of this bill will make all official plans in Ontario inconsistent with Bill 163. Am I right?

Mr McKinstry: In fact, official plans approved recently are likely to be consistent with the policy statements.

Mr Grandmaître: No, no. That's not my question. Let me give you another example.

The Chair: Do you want to finish the answer, Mr McKinstry, or do you want to wait for the question again?

Mr Grandmaître: Sorry.

Mr McKinstry: My understanding is that what you're saying is that all official plans approved before the policy statements come into force would be by nature not consistent with the policy statements—

Mr David Johnson: Be darn lucky if they were.

Mr McKinstry: —and my answer is that what we've seen in the development of recent official plans and work that's going on now in new official plans is that, first of all, many of the policies are already existing policies or government guidelines, and even with the new policies, many municipalities are taking these new policies into account because the public has demanded that they do so.

So in fact official plans approved recently may be consistent. They do not fall under the provision of the act which deems them consistent, but in fact they're quite likely to be consistent with the new policy statements.

Mr Grandmaître: Let me then, Mr Chair, rephrase my question.

The Chair: Do you want to add something to the point? All right then.

Mr Grandmaître: Let's say that 20% of our municipal official plans at the present time are two or three years old. Let's assume this. Does that mean that 20%, or all of these plans, naturally are inconsistent with Bill 163? Would you agree with me?

Mr McKinstry: No, I wouldn't, because we're not sure that all of those plans would not be consistent. The plans would have to be reviewed on an individual basis after.

Mr Grandmaître: But we're changing the planning process in the province, so these official plans can't be consistent with Bill 163. It's impossible.

The Chair: You're asking the same question again. Mr McKinstry has already—

Mr Grandmaître: Why are we dealing with Bill 163 if those official plans are—

Ms Linda Perron: Perhaps I can add some clarification by saying that there is nowhere in the legislation that says that a plan that is not consistent with the policy statements is invalid or inconsistent in any way, so the validity of the plans is not affected. But you're correct in saying that the content of the plans themselves might not fully reflect the policies that are in place and the standard which must be met of being consistent.

That is a matter that will be resolved as individual applications for plans of subdivision that might require an official plan amendment would be resolved, or when a municipality undertakes a full review of its official plan and determines whether or not it's consistent and then brings it into consistency. It is going to be a long transition, but the validity of the plans is not affected.

Mr Grandmaître: I realize that the validity of the plan is not affected, but again, I'm assuming that 20% of our municipal official plans will be affected by this new bill. It could be 25% or it could be 50%, I really don't know.

My next question is, if those municipalities want to be consistent with Bill 163, and they'll have to be consistent with Bill 163, who will have this power to say, "Your amendment will now have to be consistent with the new legislation"? Will the minister have this power or who will have this power?

Ms Perron: Whenever an approval authority will be considering either an official plan or an official plan amendment after the new version of subsection 3(5) is in effect as well as the policy statement, then this is the framework within which they will assess the proposed official plan or official plan amendment.

I think official plans for the most part are rarely up to date or fully reflect policies. It's always an evolving process and the issue ends up being determined a lot of the time when a specific development comes along or a municipality initiates a review. What this is saying is changing the rules of the process once they get into that process, and it could be triggered by different types of events.

Mr Grandmaître: Can you give me an example of different types of events?

Ms Perron: For example, if there's an application for a large plan of subdivision, which would have to be

consistent with or would have to conform to the official plan, and which in turn has to be consistent with the policy statements, if the proposed plan of subdivision does not conform with the OP or is not consistent, the developer will have to obtain an official plan amendment and then the amendment itself will have to be consistent with the policy statements. It's a hierarchy of standards and that gets worked out by developments or reviews of official plans.

1040

Mr Grandmaître: One last question: Again, I'm assuming that municipalities will want to be consistent with the new guidelines of Bill 163. How is the ministry prepared to deal with, let's say, 100 official plans that are sent to the ministry to become consistent with Bill 163? How will your ministry deal with this demand?

Mr McKinstry: There are a few ways. The Planning Act actually assigns a fair amount of powers, for example, to regions to approve lower-tier official plans, so the ministry would not receive those plans. The ministry would receive regional plans and county plans, of course, to approve, and the ministry is quite prepared to do that. There is a five-year period before the municipalities have to actually update their plans. So we do see that there would be a transitional period and we do think we can deal with that at the staff level.

Mr Grandmaître: So right now, again, you're assuming that within the next five years most or all of our municipal official plans will be consistent with Bill 163?

Mr McKinstry: The bill does require that plans be brought into consistency with at the time of the municipal five-year review.

Mr Grandmaître: What if they don't? What if they're not consistent after five years? What will happen to the official plan?

Mr McKinstry: The bill does not set out any consequences for the municipal official plan, so it would not become invalid as an official plan. However, development applications would always, from the date of proclamation, have to be consistent with the policy statements.

Mr David Johnson: My questions are in that same area because I think this is really important, and I hope the parliamentary assistant has a little bit of patience here. I'm not going to ask for money. I realize, with the social contract and the expenditure control program, that actually municipalities have lost probably hundreds of millions of dollars over the last year or so through the social contract and expenditure control program, so I doubt very much that there are going to be moneys available for this, but it is important.

I was talking with Mr Wiseman, who was sitting where Mr White is, yesterday after we adjourned at 5 o'clock. We were talking about the region of Durham, and this is just what he has indicated to me. He said the region of Durham has an official plan that was created about a year ago, so it's very new. I asked when the previous version was created, and he said in 1977. So there's a period of about 16 years, I guess, in between updates to the official plan.

That's his information. Don't shoot me if I'm wrong, but that's what he said.

If Durham now takes another 16 years, and they're one year into it, that would be 15 years from now to update their official plan again, either because it's just a very complicated thing to do, it costs money, they don't have the resources or whatever. How long will the ministry wait or what will the ministry's reaction be as years 5, 6, 7, 8 up to 15 roll by with no amendment to the official plan, and presumably the official plan would not be consistent with in totality the policy statements that are enunciated before us today?

Mr McKinstry: I would first of all say, as I said before, development applications would still be required to be consistent with the policy statements and official plan amendments would be required to be consistent with the policy statements, so there would be a method of making sure that activities that happen on the ground are consistent with the policy statements, even without an update of the official plan.

I guess I choose to take an optimistic view that most people obey the law when it's set out and that most municipalities would attempt to update their official plans in an appropriate time and bring them into consistency with the policy statements.

Mr Ron Eddy (Brant-Haldimand): On a point of information, Mr Chair: The law is not that you have to update the plan; the law is that you review it and may update. I don't think it requires updating, but you must review it. Isn't that a bit of a difference?

Mr McKinstry: There is a government motion in the package that you received that would require municipalities to bring their plans into consistency at the time of the five-year review.

Mr Eddy: Yes, right, the new—

Mr David Johnson: But I think Mr Eddy's point is, and I'm not sure of that myself, is the five-year period a mandatory update or is it simply a review which may or may not lead to an update?

Mr McKinstry: It's a review and part of the review would be the determination of whether it was consistent with the policy statements and, if it is not consistent, then it would be mandatory for the municipality to make it consistent. This is the government motion.

Mr David Johnson: Needless to say, I think your words imply that municipalities that don't update their official plans every five years are disobeying the law. I think those are very strong words and I would have to take issue with those words. I'd ask you to rethink them. Perhaps while you're thinking on that—I asked this question yesterday and I don't really think I got an answer—do you have the percentage of municipalities that would have updated their official plans within the last five years?

Mr McKinstry: I don't have that exact figure with me, no.

Mr David Johnson: If I was to ask you to hazard a guess, that would be fruitless, would it? Let me ask you this then: Would you concede that there are a significant number of municipalities that have not updated their

official plans in the last five years?

Mr McKinstry: I would certainly think there might be a number of municipalities; however, as I said before—

Mr David Johnson: I can name one, for sure. Sorry, go ahead.

Mr McKinstry: —many of the policies in the new policy statements are existing policy positions, which are reflected in the official plans.

Mr David Johnson: I think that the central question here is that municipalities are really struggling. They've had the social contract put on them, they've had the expenditure control program put on them, they have lost revenues, they have taxpayers uniformly across Ontario demanding 0% increases. They're trying desperately to make do in a very difficult climate, and the word "downloading" springs to mind very quickly.

When they're talking about downloading, they're talking about the provincial government taking action, for perhaps good reasons or whatever, but the cost is borne by another level of government, in this case the municipalities, and it's being borne at a time when they are very strapped.

I think Mr Grandmaitre, I believe it was, yesterday indicated that many of these municipalities would not have full planning status. Many of the smaller ones would have to hire consultants, and it's a costly process and it's not something that would be budgeted on a regular basis.

I think the central question here is how strenuously is the ministry going to insist that municipalities update their official plans within the five-year time frame and incur that sort of cost? I think today you'll find that many municipalities would not be contemplating or would not be able to achieve an official plan update within that five-year time frame. Is there going to be a demand from the ministry that in fact they do that and incur that cost and their citizens, their taxpayers, through property taxes, pick up that cost?

Mr McKinstry: Before I answer that question, I do have a piece of information that might be helpful. The ministry now deals with about 75 official plan updates every year, so of the 830 or 840 or 820 or whatever number of municipalities we have now, that is a fairly significant yearly number that happens every year: 75.

Mr David Johnson: That's about half. To be exact, that's 375 municipalities, out of how many?

Mr McKinstry: Eight hundred and—

Mr McLean: Over five years.

Mr David Johnson: So that's over five years, 375. Not even half would have updated within the five-year period.

Mr McKinstry: My point was that a number of municipalities do this on an ongoing basis. In terms of other municipalities that have not done it and in terms of how we might work with them, I can't predict with any certainty.

My view would be that it is likely that the ministry would decide where things like growth pressures were, where municipalities were under some kind of growth

pressure, and the gap between the policy statements and the official plan, before deciding how to work with the municipalities. It is the view in the new planning system that one of the roles of the ministry would be to work with municipalities to give them advice and assistance at a staff level.

1050

Mr David Johnson: If there are about 800 municipalities and they all have official plans, over a five-year period that would require that about 160 a year be updated, just by dividing five into 800. Is my mathematics correct?

Mr McKinstry: A comment on that is that not all 800 and whatever municipalities have official plans now and some municipalities may never have official plans, and there is no requirement for municipalities to have official plans in the Planning Act.

Mr David Johnson: Right. My guess is that the majority would either have official plans or as a result of this bill would be required to have official plans.

Mr McKinstry: I don't think that is absolutely correct. The counties and the regions and the separated cities and the planning boards would be required to have official plans under this bill. Local municipalities would not be required to have official plans.

Mr David Johnson: It would be interesting to work the mathematics out some time. At any rate, my guess is from the statistics you've given us, a significant number do not have official plans within the last five years, and I hope through your negotiations with them that you bear in mind the financial struggle that they're going through.

Secondly, somebody asked the question previously, you may have to increase staff in Municipal Affairs to deal with them all if in fact you actually do force them to have their official plan updates. If you're dealing with 75 a year right now, I suspect you would have to increase that considerably to meet the average per year so everybody did it within a five-year period, even if they were evenly distributed, which they may not be.

Mr McKinstry: One comment, Mr Chair, and that is that as the ministry gets more and more out of the review of development applications and municipalities do more and more of that, we would be able to move our staff from reviewing development applications into working with municipalities on official plans.

The Chair: There are questions? Mr White.

Mr Drummond White (Durham Centre): My question was answered, thank you very much. I'm sorry, there's a point of information. The official plan in Durham was in 1990. It took a couple of years for the approval to come from the ministry, so the time frame is not quite that long. Thank you.

Mr David Johnson: I thought it was 1977.

Mr White: Yes, but the most recent was 1991.

The Chair: Okay, we have a government motion. All in favour? Opposed? That carries.

All in favour of section 6 as amended? Opposed? That carries.

Now we'll move on to the previous section that we

were dealing with yesterday, that's section 9, and we are at a government amendment: section 9, section 16.

Mr Hayes: I move that section 16 of the Planning Act, as set out in section 9 of the bill, be amended by adding the following subsections:

"Restrictions for residential units

"(2) No official plan may contain any provision that,

"(a) has the effect of prohibiting the erecting, locating or use of two residential units in a detached house, semidetached house or row house situated in an area where residential use is permitted by bylaw and is not ancillary to other uses permitted by bylaw; or

"(b) sets out requirements, standards or prohibitions that conflict with the requirements, standards or prohibitions prescribed with respect to a house described in clause (a), residential units contained in it or the land on which it is situated.

"Provision of no effect

"(3) A provision in an official plan is of no effect to the extent that it contravenes clause (2)(a).

"Regulation prevails

"(4) A provision in an official plan that contravenes the restriction described in clause (2)(b) has effect only as if it set out the requirements, standards or prohibitions prescribed by the regulations for the purposes of that clause."

This really is a technical housekeeping amendment to the bill. That's really what it is.

Mr Eddy: I really don't see it as a housekeeping clause at all, unless it's enforcing or incorporating the accessory apartments bill into this bill. That's what I read. Is that really the case? A further question would be, does this mean that no municipality will in future, and indeed as soon as the bill is passed, maintain any single-family zoning in any part of the municipality which the OP serves? That's what I'm reading into it. Am I off base or right on?

Mr Hayes: What's needed is a—

The Chair: There's a comment here, and Ms Mifsud.

Ms Lucinda Mifsud: Perhaps I could help you. This bill was contemporaneously introduced in the House when the residential housing bill was in the House and we have inadvertently struck out what they have put in. So we are just putting it back to exactly what the state of the law is right this moment.

Mr Eddy: That's the residential housing bill, did you say? Is this the accessory apartments?

Ms Mifsud: That's right. There was absolutely no change in the law. Because of the timing of it, we didn't know which bill was going to proceed at which time and we inadvertently struck out what they had just passed.

Mr Eddy: So that's why you say it's housekeeping of a technical nature.

Ms Mifsud: That's why it's housekeeping. There's absolutely no change effectively.

Mr Eddy: I still have some serious concerns about it, because I think another question then needs to be answered in that case. Does this mean, because of the

restrictions and the residential housing bill, that no municipality can legally have a dwelling for single-family housing in any area of any municipality? Because we've been told that.

I think we had one or two presentations on that from municipalities that pointed that out to us, that because of the new restrictions it does mean that. So now, let's see. There isn't a policy on that, so it's the other bill that has to be followed. Did I answer my own question? If so, it wasn't satisfactory.

Mr Curling: It falls very short of a complete answer.

Mr Eddy: It falls short of a complete answer. Thank you, Mr Curling. I can rely on you. But I think we need to deal with that particular matter even though it's the other bill, because you've triggered it with this.

Mr Curling: It's in this bill now. They've put it in this bill now. Let's talk about it.

The Chair: Mr Hayes, you have a further comment?

Mr Hayes: I don't know. Was there a question there?

Mr Eddy: Yes, sir. Is a municipality that reviews and updates its official plan and proceeds to have an official plan, if it has not had one, prevented by the residential housing bill—and it's triggered by this amendment—is it no longer legally possible to have single-family zoning in a municipality? Because that's what has been stated by someone and I needed—

Mr Curling: As dictated by the minister.

Mr Eddy: Yes, the minister—

Mr Curling: The Minister of Housing will dictate that.

Mr McKinstry: This provision simply, as the legislative counsel indicated, puts into the Planning Act the existing state of law in Ontario now.

Mr Eddy: Right. I'm clear on that.

Mr McKinstry: This part of it is simply to say that official plans cannot contain provisions which prohibit two residential units in certain types of dwellings.

Mr Grandmaître: So residential—I'm sorry, Ron.

Mr Eddy: No, no. I need help.

Mr Grandmaître: Residential zoning is prohibited then. Single dwellings.

Mr McKinstry: Residential zoning is still permitted in municipalities.

Mr Eddy: Residential zoning, but we're talking about single-family residential zoning.

Mr McKinstry: It's not clear to me what the legal definition of single-family zoning is, but the effect, I understand, of this is to do with official plans. There is already a provision in the Planning Act that says that municipalities may not zone to prohibit two units in certain types of dwelling units.

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Mr Eddy: Let me rephrase the question then. In official plans that come before the ministry for approval, you will not allow, I think, single-family zoning in any part of any municipality, as I said, where the official plan comes to the ministry for approval. You have the authority to approve, the responsibility indeed to approve

official plans of many municipalities where there isn't an upper-tier plan, where it's a single municipality not in a two-tier system, and there are hundreds of those in the province of Ontario of course.

Mr McKinstry: Is there a question you wanted me to answer?

Mr Eddy: Yes. The question is, will you, in approving official plans for those municipalities that you will continue to have responsibility for approving, no longer allow zoning for single-family dwellings because of these? I mean, you can't and obey the law would be my point.

Mr McKinstry: The provisions in this bill and in Bill 120 would state that municipalities cannot prohibit two units in certain types of dwelling units. That is the state of the law now, yes.

Mr Eddy: So in certain types of units, but one type of units is single-family dwellings.

Mr McKinstry: The units, I believe, that are addressed are detached dwellings, semidetached dwellings and row houses.

Mr Eddy: What else would there be for single family other than apartment buildings? I think it covers it. Is this something you'd like to come back to?

Mr Hayes: No, I don't think so.

Mr Eddy: All I want to—

Mr Hayes: We're not going to sit here and really seriously—

Interjection.

Mr Hayes: No. We're not going to sit here and debate Bill 120, first of all.

Mr Eddy: I'm not debating; I have a simple question.

Mr Hayes: But there's nowhere in there—

Mr Eddy: Are the people who come—

Mr Hayes: No, no, let me finish, please.

The Chair: Mr Eddy, you asked him whether or not we should—

Mr Hayes: There is nowhere in there where it prohibits a single-family dwelling. I don't know where you're coming from on that. You're saying, "I think or I assume"—

Mr Eddy: Absolutely I'm right. I know I'm right.

Mr Grandmaître: Mr Chair—

The Chair: Okay. I've got a list. Hold on. Mr McLean.

Mr Eddy: Oh, did you finish with me?

Mr Grandmaître: Mr Chair, as a follow-up—

The Chair: You asked a question, but if you still want to go on with other questions, please do.

Mr Eddy: The question is to the staff then, through the parliamentary assistant of course. Will the ministry, in reviewing the official plans in municipalities for which it is responsible under the new system—and there will be many of these—approve official plans that contain zoning for single-family residential units? That's really the gist of it.

Mr McKinstry: My view would be that the govern-

ment would not approve official plans which restrict—how should I say this?—two units in certain types of dwelling units, namely, detached, semidetached or row houses. However, I should add a rider to that, which is that the ministry will not be approving all official plans; other authorities will. The way the law is stated is that those provisions in official plans which do restrict two residential units in a dwelling would be of no force and effect at all.

Mr Eddy: Then if approving authority does in fact approve of an official plan containing zoning for single-family dwellings in certain areas, the ministry would be required almost because of the law to appeal those if it knew about them.

Mr McKinstry: It would not be required by the law.

Mr Eddy: But I think the residential housing act—what's that bill?

Mr Curling: Bill 120, the famous one.

Mr Eddy: Bill 120 is a law of the province of Ontario. Of course, so is the Municipal Boundary Negotiations Act a law of the province and we've seen that shunted.

The Chair: Mr Eddy, Mr McKinstry was trying to answer what's here on this section—I understand that—and he was asking a question that has to do with housing of course. I'm not sure whether we're providing that particular answer. Is there someone from Housing who can provide that answer so that we can move on?

Mr Eddy: Well, it really did deal with Municipal Affairs because they approve of official plans, and because at least, I think, two of the deputants during the course of the hearings brought this matter up, I thought it should be followed through and answered. I've got an answer that, yes, in reviewing the official plans for those municipalities which the ministry will continue to be responsible for they will indeed not approve of zoning for single-family dwellings, and I think municipalities need to know that.

The Chair: Is that the answer we've given?

Mr Hayes: It's not—

Mr Eddy: Because in reviewing their plans, they're going to spend a lot of money incorporating those and then find you can't do that. I mean that's fine. Thank you.

The Chair: Okay, a concern.

Mr Grandmaître: When the regulations are introduced, will we have a definition of what a single-family dwelling is, because, if I'm not mistaken, you told us that you didn't have a definition of a single-family dwelling.

Mr McKinstry: I was referring to the fact that in our bill there is a definition of "residential unit." "Single-family dwelling" is a common usage term. What Bill 120 talked about was a little more precise in saying that two residential units could not be prohibited in a detached dwelling, semidetached dwelling or row house.

Mr Grandmaître: Could I get the definition of this, please?

The Chair: Mr Grandmaître, are you done? Okay. Mr Johnson.

Mr David Johnson: I think why we're going around in circles here is because the ministry has its own little dictionary and in its dictionary it has terms like "detached" and "semidetached" and "row housing," but nowhere in there is "single-family residential." Municipalities, though, when they do their zoning, use that phraseology, if not in the official plans at least in discussions. R1, for example, is a very common phrase and not only a slang phrase but a—

Mr Gary Wilson (Kingston and The Islands): A point of order, Mr Chair: I'm just not sure, Mr Johnson, where these definitions are occurring or which bill—

Mr David Johnson: They're right here before us. I'm looking at the amendment.

Mr Gary Wilson: Okay, I just wondered what it is.

Mr David Johnson: It says, "detached house, semi-detached house or row house." I could provide you with a copy if you'd like.

Mr Gary Wilson: I'm not sure what it has to do with this amendment that has been clearly said is just house-keeping to put it in line with Bill 120. I think Mr McKinstry answered the question very clearly.

Mr David Johnson: Okay. The problem here—

The Chair: He's establishing a connection, Mr Wilson.

Mr David Johnson: Yes, and I started very clearly with stating detached house, semidetached house, row house, and that's what this is all about. But in reality, municipalities do use the term "R1" and do use the term "single-family" and the answer to Mr Eddy's question is, very clearly, that municipalities will not be able to put in effect in their zone what they have construed as a single-family house. It has to be able to have an accessory apartment in it, except where there's a septic system, I guess. There are a few exceptions in the country, but other than that, then they will not be able to do it.

What I'm still not quite understanding is, as the staff have said, this is the legislation, so would somebody explain again why we need it here, given that this is legislation in the province of Ontario?

Ms Mifsud: It's rather difficult to explain, but Bill 120 did not have royal assent when this bill got introduced, so we didn't know whether it was going to go through. It was still in the process. The two bills were in the House contemporaneously and neither bill adjusted for the other. So we have inadvertently taken out what they put in, because it was passed after this was introduced. It was just the timing. They were in the House at the same time.

Mr David Johnson: Well, Bill 120 now is proclaimed.

Ms Mifsud: That's right.

Mr David Johnson: So it is the law as we sit here today.

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Ms Mifsud: Yes, but if this bill passed we would cancel out that, yes, without this amendment.

Mr David Johnson: So this bill would take precedence over Bill 120 somehow? Is that what you're saying?

Ms Mifsud: It revokes the amendments made by Bill 120, yes. Some of them; not all of them obviously.

Mr David Johnson: I still don't quite understand. I would assume that if Bill 120 is the law, the law is the law. Is there someplace in here where it revokes Bill 120 that you can point to that I can understand?

Ms Mifsud: We've remade section 16 in this act, in the Planning Act, in this bill. We're going to remake 16 and these amendments were included in the bill and we are inadvertently revoking it, because it's now a part of 16. So we're cancelling out what we did. It's just because of timing.

Mr David Johnson: All right. I sort of vaguely understand what you're saying, I think. Then here again it says after the title "Restrictions for residential units," "No official plan may contain any provision that has the effect of prohibiting the erecting...of two residential units in a detached house, semidetached house or row house."

Probably 90% of the official plans in the province of Ontario would contain a prohibition, R1 zoning, for example, at the present time. I'm trying to link together the previous rationale that I have, but just focusing on this. Once this becomes law, what happens to all those official plans, certainly most of them here in Metropolitan Toronto at any rate? I'm not 100% sure of the city of Toronto, but the East York official plan would have R1 zoning. I'm sure North York would, Scarborough, you name it. What happens to those official plans when this is proclaimed?

Mr McKinstry: This deals with official plans, so official plan provisions which contain restrictions on more than one and less than three, if you like, in other words, two, residential units in certain types of dwelling units would have no force and effect. But I should also point out that the zoning section is not being changed and that therefore the law as it stands now, which is not affected by this bill, says that municipalities could not have zoning bylaws that restricted two residential units in a dwelling.

Mr David Johnson: I'm sorry, yes, I muddled them together too. So the official plans could designate residential areas but not be specific in terms of the density. Then the zoning bylaws may specify R1 or R2, or maybe R3 might be apartments, that sort of thing. You mean to tell me that would not be in violation, that would not be contrary to this bill or to Bill 120?

Mr McKinstry: I believe what the legislative counsel explained was that this is a housekeeping amendment to one part of the bill and another part of the old Bill 120 is not affected. This is simply a housekeeping amendment to bring one part of our bill into compliance with the former Bill 120.

Mr David Johnson: I guess what you're saying is technically then, it's fairly likely that most official plans would not be as specific as saying R1 versus R2 so, technically speaking, most of them wouldn't be in violation of this. It would be something else later on, where the zoning would come in where they'd be in violation.

Mr McKinstry: Yes, that's likely. That may happen.

Mr Curling: Let me start with the housekeeping. It seemed to me that the big broom and the whole vacuum cleaner and all sorts of stuff was used in this housekeeping. In this one here, when you were doing 120, it seems to me that certain things would have slipped through if you didn't have this in place. So what you've done is, if the official Planning Act was coming in at the same time, it wouldn't necessitate you putting it in 120. In my understanding, it was placed in 120 in case there was any slippage and as soon as we got 120 in, if we could put it back in the official plan as housekeeping, then we would take it out of 120. The question I'm asking is, is this part of it in 120 now?

Ms Mifsud: Yes, it is.

Mr Curling: Okay, so you've cornered those folks and said, "You may not do that," because we're going to do a quasi-official plan by putting it in 120. Once we get it there, when we're doing 163, what we'll do is put in here and call it housekeeping, because—guess what?—it really belongs in the official plan.

The Chair: Mr Curling, if you don't mind, we should go through an explanation of how it all entered into.

Mr Curling: I'm just asking if she can answer it and she's doing very, very well. The legal counsel did very well and started telling me, "Yes, it is in 120," you said.

Ms Mifsud: Yes.

Mr Curling: Yes, you want to put it in 163 now and call it—it is really housekeeping, but you want to take it out of 120.

Ms Mifsud: Perhaps I haven't explained it well. In fact it's very difficult to explain. It is in the Planning Act now. It's an amendment to the Planning Act. It's in the Planning Act because it was an amendment to add it to the Planning Act that passed. It is part of the Planning Act, but because of timing issues, we didn't know which bill was going through first, we have inadvertently struck it out of the Planning Act by this bill. All we're trying to do is nullify what we inadvertently did in this bill because we couldn't handle it any other way at the time.

Mr Curling: Yes, and let me just—

Ms Mifsud: That's why it's housekeeping, because there's no change in the law; it is right in there in the Planning Act at this point.

Mr Curling: Yes, and to the Chair, let me just say to you that trying to hurry me is the same process that caused all of this slippage to happen. So let me go through it slowly as to why all of these things are happening.

The Chair: Take your time.

Mr Curling: I'm taking my time because the fact is that these inadvertent things that are happening is because we're trying to rush these bills through so we can corner certain situations. It is up for debate here now, not housekeeping, it's really up for debate. The parliamentary assistant doesn't like debates; he likes questions. But it seems to me, I want to understand it fully, no single-dwelling residential unit will be accepted if anyone puts it in the official plan and says, "In my official plan, there will be single residential units as part of the official plan." It will be stated that it will not be acceptable.

Interjection.

Mr Curling: The parliamentary assistant says no. Let me just ask the bureaucrats here then, who I think will answer me directly. If a single residential unit, R1 as they call it, is placed in an official plan, it will not be accepted as part of the official plan. Is that what I'm understanding? "No official plan may contain any provision that has the effect of prohibiting, erecting, locating or use of two residential units," and all that. They have a single unit for a single family.

Mr McKinstry: If I can clarify what I said before, official plans will not, by this provision and by the current provisions of the Planning Act, be permitted to have policies which say that municipalities can prohibit two units in any detached, semidetached or town house. So it is unlikely that approval authority would approve such policies. If such policies were approved or if they're in effect now, by the current provisions of the Planning Act they would not have any force and effect.

Mr Curling: What I'm understanding from this, and I won't be long on this one either, is that the empowering of municipalities—I'll ask this to the parliamentary assistant—to plan their own communities will be restricted. This is a restrictive law. Is this the intent of it? To restrict the community from doing planning in that direction?

Mr Hayes: My understanding is that this is already part of the Planning Act. Am I correct in saying that?

The Chair: Yes.

Mr Curling: So the question is, yes it is.

Mr Hayes: It's already there.

The Chair: It's passed already.

Mr Hayes: We're not deciding whether this is a good bill or not. We're not debating whether this is a good bill or a bad bill, this particular amendment, because it's already there. It's already passed and we're just putting it in the proper place is what is happening here.

Mr Curling: It's already passed where?

Mr Hayes: It's in the Planning Act. Correct?

The Chair: As Ms Mifsud has explained, this has already been proclaimed. In the existing document here in this bill, they have inadvertently repealed this section. It has been repealed. If we don't put it back in because of the mistake that has been made, this section which has been already proclaimed, passed through Bill 120, will have been repealed. So we're trying to put it in where it belongs to correct a mistake that has been made.

Mr Curling: It's wonderfully explained that, to say that it's already law, but we've got to put it back in because it's going to be repealed. It's not really because you have to make sure that—

Mr Hayes: I'm sorry we can't be perfect like you and do everything, you know, the right way every time.

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Mr Curling: What would be the consequence if this is not passed now? Suppose this is voted against now, what would happen?

Mr Grandmaitre: It will be passed.

Mr Hayes: The more you understand it, the more you'll support it. We know that.

Mr Curling: What would happen if it is not passed? Your members may vote against it.

Ms Christel Haeck (St Catharines-Brock): We know it's going to pass.

Mr Curling: Oh, you have instructions.

The Chair: Can we move on, Mr Curling? I think we're ready for the vote on this section. All in favour of the government motion? Opposed? That carries.

We have a Liberal motion.

Mr Curling: This is section 9 of the bill, section 16.1 of the act?

The Chair: Yes. Section 9 of the bill, section 16.1.

Mr Curling: I move that section 16.1 of the Planning Act, as set out in section 9 of the bill, be amended by adding the following subsection:

"(2) An approval of an official plan or amendment by the approval authority that has followed the prescribed processes shall be deemed to have met the requirements of subsequent processes under the Environmental Assessment Act."

As it is stated there, provided that they have followed the Environmental Assessment Act, it should be really deemed that they have followed the prescribed process. I feel it's unnecessary for any other rules to be followed. This is quite adequate.

Mr Eddy: I support the amendment. As you will recall, several deputants during the hearings stressed the importance of integrating the requirements of the Environmental Assessment Act with the new Planning Act. Is that what this does? Does that meet those concerns and requests that representatives had on several occasions? I recall it was one of the items I listed that we should look at. Maybe the parliamentary assistant can deal with my question.

Mr Hayes: On this particular amendment the plan is that the government will develop regulation to allow municipalities to adopt an optional planning process. The determination of whether this process meets the EA act should be decided on a case-by-case basis after the municipality has adopted the process. What you're saying here is that they would automatically meet the requirements, and we don't know for sure whether they would.

Mr Eddy: I believe this would meet the request of several representatives who pointed out the importance of doing it. It is indeed a recommendation of the Association of Municipalities of Ontario, which represents over 600 municipalities of all types across the province. I think it will go a long way to speeding up the planning process in municipalities, something we're all concerned about I believe, provided the proper rules are followed. Therefore, I would recommend it and request that government members support it.

Mr McLean: In order to get an official plan approved, don't you have to go through the process of having the health units, the environmental assessments, approved in order to have the minister approve that official plan?

Mr McKinstry: Yes, we do.

Mr McLean: Then why do you need this extra in there in order to have the environmental assessment with respect to any requirement that it must meet under that act? It's already been met. Once the official plan has been approved, it's already been met.

Mr Ron Kennedy: This also is a rather complicated issue. What we're dealing with here are official plans that deal fundamentally with the principle of where development may or may not happen in the future and the policy for that development. Generally municipalities are a long way from doing the environmental assessment type work that's required on the infrastructure to support that development.

The application of the Environmental Assessment Act to municipalities applies to the sewer, water and roads works that they're doing. What seems to be common practice in Ontario now is that municipalities, as a first step, will define where land uses should occur and then, as a subsequent step, go through the very detailed environmental assessment work under the class environmental assessments to work out sewage, water and roads infrastructure to support that development.

That's the way it's working. We should be clear that official plans and amendments are not subject to environmental assessment approval now and never have been.

Mr McLean: We've had delegations that came before us from the Ontario planning association that made presentations to us. What communications have you had with them or with AMO before these amendments were drafted? Any?

Mr McKinstry: Yes. We had extensive discussions with AMO before the resolutions were drafted, as well as with many of the other large stakeholder groups such as the OPPI, the Ontario Professional Planners Institute.

Mr McLean: So far to date, all the resolutions that we've had have been AMO's and up to this moment not one of them has passed. Obviously, you didn't listen very well or you didn't feel that they were doing a very good job of presenting their points of view.

Mr Hayes: Your opinion.

Mr McKinstry: We have in fact, through government motions, adopted a number of AMO's requests.

Mr McLean: So we haven't got to them yet?

Mr McKinstry: No. Some of them have already passed, for example, adding the recognition of municipalities in the purposes of planning.

Mr David Johnson: I think the request by AMO, as I understand it, is that in the environmental process there are several steps. Am I right on that? If you're talking about infrastructure, for example, roads, sewers, whatever, how many steps are we talking about, three steps, something like that?

Mr Kennedy: The current class environmental assessment—actually there are two of these documents, one for municipal roads projects and one for municipal water and waste water projects—for the projects that have to go through the full class environmental assessment process, it's a five-step process.

Mr David Johnson: Five-step. Now, you've been going through an official plan process. Would they normally go through some of these steps, the first step or the first two steps of that process pertaining to infrastructure? Would that be a normal situation?

Mr Kennedy: Normally in Ontario, it's not so far. That's one of the reasons that we have the class environmental assessments.

Mr David Johnson: All right. I presume that during those steps there are defined objectives or defined procedures, standards, I don't know what the word is exactly, but there is a process that has to be undertaken.

Mr Kennedy: It's a very specific process.

Mr David Johnson: Very specific process. If a municipality in going through the official plan process followed the environmental assessment process, the very specific process that you've outlined—and I think this is what they're saying—then why at some future time should they have to go back and redo it?

Mr Kennedy: One of the reasons that that would be cumbersome, in my opinion, for municipalities is that the class environmental assessment process applies to specific individual pieces of infrastructure: specific road widening, specific sewer lines, specific water lines, those kinds of things.

At the time the conceptual planning is done, at the official plan stage, it's a little early to start doing the level of detailed analysis that would be required for each individual piece of infrastructure in the municipality over a 10- to 20-year planning term of the official plan. That's a practical difficulty that I think most municipalities would have.

Mr David Johnson: How do you interpret the motion that's put forward here today? It has been put forward by both the Liberal Party and the Progressive Conservative Party, but essentially it's word for word from what AMO put forward in their brief. What it says is:

"An approval of an official plan or amendment by the approval authority"—now here are the key words—"that has followed the prescribed processes shall be deemed to have met the requirements of subsequent processes under the Environmental Assessment Act."

When they say "that has followed the prescribed processes," how do you interpret those words?

Mr Kennedy: I interpret those words to be the prescribed process that would be defined by regulation under the Planning Act.

Mr David Johnson: You don't interpret them as processes under the environmental assessment?

Mr Kennedy: No, I don't. No.

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Mr David Johnson: Had you interpreted them as being prescribed processes under environmental assessment, then would you have any objection to this amendment? I don't see how but—

Mr Kennedy: As a matter of fact I would, Mr Johnson. It's really a practical matter, the amount of analysis and the amount of work that the class environmental assessments require to be done for individual

pieces of infrastructure and whether it's appropriate at the time municipalities do all the work they do under official plans to get into that level of detail on specific pieces of infrastructure to support development that may not happen for 10, 15, 20 years.

Mr David Johnson: That would be their choice.

Mr Kennedy: It could be.

Mr David Johnson: I guess it would depend on how far away the development was. It may not be 10 years away; it may be in the near future. But at any rate, what you're saying is you would fear for the financial feasibility of them doing it. But if they did it, then you can hardly argue that they turn around and redo it, could you?

Mr Kennedy: Except that over time environmental conditions change and to do an analysis now about what the environmental effects might be of a piece of infrastructure that might not actually occur for 10 or 15 years time, it might be premature to do that.

What I believe the intent of AMO's position and the motion to be, if I could be so presumptuous, is that if municipalities were to do some comprehensive planning for both land use and infrastructure and that were to be put in the official plan, that there be some credit given for that work in the environmental assessment process, and I think the value of the distinction is that there be some credit rather than go all the way to the end of the environmental assessment process.

Mr David Johnson: Could I read you a sentence from the brief of the Association of Municipalities of Ontario. I don't know if you have their brief. It's on page 27 of their brief. It says:

"One possible solution is to amend 16.1 of the Planning Act to indicate that the approval of an official plan or amendment by the approval authority that has followed the prescribed processes means that the steps required under the Environmental Assessment Act will not have to be repeated."

It seems to me that it links prescribed processes and the steps under the Environmental Assessment Act. It sort of implies to me that the steps that they're intending to follow would be the same as those under the Environmental Assessment Act.

Mr Kennedy: It's certainly possible to do that, but I still come back to the very practical difficulty of doing planning for land use that may happen over a long period of time with the very detailed planning that the class environmental assessments require for very specific pieces of infrastructure, and whether it's appropriate or feasible even at the time a municipality is planning for development that might not happen in 15 or 20 years time to right now do the very detailed planning for the infrastructure that's going to be that far out.

Mr David Johnson: Just to be 100% sure, when we're talking about five phases of the Environmental Assessment Act, you're talking about phases 1 and 2. Phases 1 and 2 are that specific, are they? I mean, it would seem to me that when you get into an environmental process, and actually AMO talks about phase 1 and 2 specifically, but they say that the first two phases of an environmental assessment process are a self-assess-

ment process subject to objection and the bump-up of approvals are given. Anyway, they call it a self-assessment process. It doesn't sound to me that they feel that the first two phases are quite as specific as you've outlined.

Mr Kennedy: If I may, Mr Johnson, these are the five phases of the environmental planning process.

Mr David Johnson: I see phase 1 over here. What does phase 1 say?

Mr Kennedy: Phase 1 is the identification of the problem and discretionary public consultation.

Mr David Johnson: Well, that doesn't sound very specific.

Mr Kennedy: So far it's not.

Mr David Johnson: Well, now there you go. So why couldn't at least phase 1 not have to be—

Mr Kennedy: We'd like to go beyond that, Mr Johnson, actually. Phase 2 is to identify alternative solutions to the problem, the environmental impacts of those alternatives along with public consultation and the selection of a preferred solution.

Mr David Johnson: I don't know if that's specific or not.

Mr Kennedy: It would be very specific. It would be looking at major alternatives to the problems.

Mr David Johnson: Wouldn't you agree at least phase 1—

Mr Kennedy: I'd go further than that, Mr Johnson. I'd agree with phase 1 and 2.

Mr David Johnson: You want to link phase 1 and 2 together. Is that what you're saying? You don't want to separate them.

Mr Kennedy: That's right, so that if a municipality in doing its work in developing an official plan were to do the analysis under the class environmental assessment process for phases 1 and 2 to the point that they know what the preferred solution for infrastructure is, that that be given credit under the environmental assessment processes.

Phases 3, 4 and 5 under the environmental assessment process are starting with the preferred solution and then looking at the detailed design alternatives to that, leading to the ability of a municipality to issue a tender for construction of a piece of infrastructure. What we're hearing is that credit be given to phases 1 and 2, and that if that were done under this process, municipalities could pick up the ball at that point and start to do the detailed design work on the infrastructure, whether it's a road widening or a new sewage treatment plant or whatever.

Mr David Johnson: Could you be more descriptive in what you mean by the word "credit," that credit be given? What does that mean?

Mr Kennedy: Exactly how we'd implement that would have to be subject to further discussion with the Ministry of Environment and Energy. In my opinion, what we would do would be to assume that this was in place. That would then be implemented by amendments to the class environmental assessment process that would have the effect of saying that where an official plan or an

amendment that was developed and approved under this particular provision of the Planning Act had been done, the infrastructure shown or associated with that official plan or amendment would not be subject to phases 1 and 2. Now there'd be some detailed wording, but the concept would be that where this Planning Act approval was given, when municipalities started to do the detailed planning on the infrastructure, that they start at phase 3 under the existing class environmental assessment process.

Mr David Johnson: Wouldn't it be just as easy to state that and put it in? Isn't that essentially what they're saying, that under certain prescribed conditions they would not have to go back through 1 and 2?

Mr Kennedy: The way I read the recommended amendment from AMO would be that municipalities would not be subject to the environmental assessment process at all.

Mr David Johnson: Well, under prescribed conditions. Make it clear that they would have to have followed prescribed processes, and I guess it depends on the definition of prescribed processes. But you're saying under certain conditions you agree that they shouldn't have to go back and approve steps 1 and 2.

Mr Kennedy: I'd agree that's where we're trying to get to, but as a first step I think if we can get to the credit being given for the first part of the process, which is looking at the big alternatives and the analysis of all of that, if you start with the preferred solutions it can follow through from there.

Mr David Johnson: I guess we're going around in circles here now, but at least you would agree with the direction that AMO is headed, and I guess the motivation is that the environmental assessment process is so long and time-consuming and costly for municipalities. It's not that they're trying to be environmentally insensitive, but taxpayers have to pick up the bill for it and it quite often involves a time delay as well. We're trying to do that in this bill, I think, cut through the red tape and speed things up. You would agree those are good motives?

Mr Kennedy: I'd agree that they're good motives. I'm not so sure that I'd agree with all of the cost implications. Certainly the idea of doing planning for land use and infrastructure together rather than separately, which is what's done now, is a worthwhile objective and we are moving in that direction.

Mr David Johnson: I think if you ask just about any municipality in Ontario what is the most costly process today, now they may be thinking more in terms of land-fill sites, but the environmental process, the Environmental Assessment Act, I presume, would come up as number one on that list in most cases. Is that any surprise?

Mr Kennedy: It wouldn't surprise me, no.

Mr David Johnson: No. Okay. So you will be discussing this with the municipalities. Is that part of this process?

Mr Kennedy: Yes, as well as with the Ministry of Environment and Energy of course, because we're talking about their legislation as well.

Mr David Johnson: I assume from the look on the parliamentary assistant's face that this will lose today, but

I really think that this is a huge problem that municipalities are facing, the environmental process in general. There needs to be in place a process that yes, protects the environment, ensures that people have their say. But it has to be workable, and today it's very cumbersome, time-consuming, costly and, in the case of some landfill sites, it's unending. I guess the poor old Interim Waste Authority is finding that out and is about to find that out again this fall—megabucks.

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Mr Curling: I think after listening to the discussion, and it is consistent with what AMO is saying in regard to getting the time frame and getting the thing speeded up, it would be important, I feel, that the government, if they would like to do this, would revisit that section, realizing the fact, as you said, that if they have gone through a certain process and having to go through the environmental assessment process again—from what I'm understanding, they have to go through five stages—if the government revisit this area and realize that, after the first prescribed process they have been through, they deem that they go through phase 1 and phase 2 and speed up the process.

I'm just wondering if the parliamentary assistant could give us reassurance that they could revisit that, look at what AMO is saying and maybe looking at phase 1 and the environmental assessment, say that if they have done all that, it should be deemed that have gone through that process and it would save a lot of time.

Mr Hayes: We would certainly like to do that. Also the plan is that we will address that situation through regulation. There will be something there so that hopefully we can work it out where it will speed up the process.

Mr Curling: There are two things you're saying then. One, you're saying that—I don't want to really put you on the spot—you know you're not looking at it, but you feel confident that regulation will address this.

Mr Hayes: Yes.

The Chair: Anything further? Seeing none, all in favour of the Liberal amendment? Opposed? Defeated.

PC amendment.

Mr McLean: In the interest of time, I'll withdraw that amendment. Moving right along.

The Chair: Thank you. All in favour of section 9 as amended? Opposed? That carries.

Mr Hayes: I move that subsection 17(2) of the Planning Act, as set out in section 10 of the bill, be amended by adding after "Durham" in the sixth line "the regional municipality of Haldimand-Norfolk."

This change is requested by the regional municipality of Haldimand-Norfolk. The change would better reflect the existing situation of the region whereby it may direct the lower tiers to declare official plans, and assignment of power to the region to approve lower-tier plans would take place if it directs the lower tiers to prepare a plan.

Mr McLean: The question I have is, why have you not added in the counties of Bruce, Grey, Hastings, Huron, Lambton, Oxford, Prince Edward and Victoria and

Wellington in that same resolution? Why haven't you added them in?

Mr Hayes: There is a motion to deal with that later on. That's why it's not here.

Mr McLean: Well, it's not a very good answer.

Mr Eddy: A clarification is requested. You're adding the regional municipality of Haldimand-Norfolk, which is not included. Haldimand-Norfolk has a regional official plan, one-tier but with district plans, as I understand it. Could you just explain that for me?

Mr McKinstry: Yes, after we had drafted the bill we discovered a provision in the Haldimand-Norfolk act that says the region may direct the local municipalities to prepare official plans. If they so direct, Haldimand-Norfolk then becomes a two-tier. Until they direct, it's a one-tier and they would not have this power. If they direct the locals to prepare an official plan, then they would have the power to approve those local official plans.

Mr Eddy: Thank you. I support the amendment.

The Chair: All in favour of the amendment? Opposed? That carries.

The Liberal amendment.

Mr Eddy: I move that subsection 17(2) of the Planning Act, as set out in section 10 of the bill, be amended by adding after "Muskoka" in the second-to-last line "and the counties of Bruce, Grey, Hastings, Huron, Lambton, Oxford, Prince Edward, Victoria and Wellington."

These are the counties, I understand—Oxford, of course, being a restructured county, perhaps that designation should be there, I have no problem with that—that have approved official plans, being land use plans, as I understand it, and should be included.

Mr McLean: I agree with that. I find that is an excellent proposal. We have an amendment which is identical and it's recommended by AMO also, so I see no reason not to approve it.

Mr David Johnson: Could we have the parliamentary assistant to enlighten us on the government's position on this matter?

Mr Hayes: Actually the government intends to delegate authority to approve local official plans to counties when they have up-to-date official plans and the appropriate staff resources. The government believes that individual needs of counties would be better recognized by assessing each county on a case-by-case basis and delegating authority where appropriate.

Mr David Johnson: We're not talking about a great long list here. We're talking about one, two, three, four, five, six, seven, eight, nine counties. I wonder then, since the parliamentary assistant has indicated "should look on a case-by-case basis," those counties that have official plans at the present time—I presume the government has done that in these nine cases; it wouldn't take a great deal of effort—could they tell us which ones of the nine meet the government's criteria at this point?

Mr Hayes: I think they all meet them.

Ms Pat Boeckner: I am Pat Boeckner and I'm with the operations division of the Ministry of Municipal Affairs, the branch that deals with official plans. None of

the county plans at this time have sufficient policy context to enable them to provide enough direction for the approval of official plan amendments.

Mr David Johnson: Could you be more definite? When you say, "sufficient policy context," it sounds like a ministry buzzword.

Ms Boeckner: Yes, what I'm basing that on is the existing policy statements, and those are floodplain, wetland, mineral aggregate, housing, growth of settlement and food land. Those are the existing set, not the comprehensive set, of policy statements.

Mr David Johnson: This sounds like déjà vu all over again. It sounds like a discussion we had earlier this morning. What you're really saying then is, none of these nine have official plans that would be consistent with the policy statements of the province of Ontario?

Ms Boeckner: I would clarify that in saying that none of the county official plans have either maps or policies that deal with most of those policy statements.

Mr David Johnson: Now they all do have official plans?

Ms Boeckner: The ones mentioned have official plans; however, I would not go so far as to call them land use plans.

Mr David Johnson: Can you tell me roughly how up to date they are? I don't know if you have a few examples. For example, Bruce, is it fairly recent?

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Ms Boeckner: I can give you Bruce. Bruce county actually has two county level official plans, one for the north and one for the south. The south was approved in 1982 and the north was approved in 1985.

Mr David Johnson: North in 1985. Who else can you give us there?

Ms Boeckner: Actually I can give you them all, if you like.

Mr David Johnson: If it's quick. Grey?

Ms Boeckner: I have a chart with quite a bit of that kind of information, if that would be useful.

Mr David Johnson: Can you pass it out? Just eyeballing the chart, would they be mostly about that same time frame, in the 1980s?

Ms Boeckner: The earliest one was 1973—

Mr David Johnson: Who was that?

Ms Boeckner: That would be Huron. The most recent would be Wellington in 1992.

Mr David Johnson: But there's 1984, 1982. It sort of proves my point about official plans not necessarily being up to date in the last five years, I guess.

Ms Boeckner: Yes. The average is about 10 years old in the county plans.

Mr David Johnson: Yes, I'm not surprised. I'm not the least bit surprised.

Ms Boeckner: I should say there are quite a number of official plans at the county level that are under review at the ministry now or are in the process of being brought up to date. There's been quite a lot of activity in the last couple of years.

Mr David Johnson: I hate to be—what's the word?—combative here, but what you're really saying is, "Until you counties tow the line with our policy statements, then you will not be designated this authority," this authority being to—

Mr McLean: I can answer that. Yes.

Ms Boeckner: Bill 163 is based on a policy-led system, in other words, having the provincial policies and the local and regional policies set out in the official plans. I guess what we're saying here is that the county plans, by and large, with some exceptions, do not carry forward the provincial policy statement into a county policy context.

Mr David Johnson: There is a list in the bill of all the other regions here, the regional municipality of Halton, Hamilton-Wentworth, Niagara, Ottawa-Carleton, Waterloo. Have all their official plans been investigated and can you tell us without reservation that they meet the criteria today that you're saying that these counties do not meet?

Ms Boeckner: The regional plans have, by and large, been kept up to date in a better fashion than the county plans. Most of the regional plans are up to date with these policy statements with the exception of the wetlands one. Most of the regions are working on their wetlands policy statements.

Mr David Johnson: All right. What you've indicated is that, in particular with the wetlands statement, some of them are not up to date. In that case, why did you not reject them as you rejected the counties?

Ms Boeckner: As I said, the county plans are, by and large, up to date and the wetlands policy statement has been in effect since 1992. Many of the regions are still working along with the Ministry of Natural Resources on the actual mapping of the wetlands. Some of them have come forward with amendments dealing with wetlands. Approximately five or six regional plans are in the process of coming in for adoption at the regional level and they will contain updated policies.

Mr McLean: Could I just have a clarification on that? Why are they in here if they don't meet the qualifications now, which the counties don't? Obviously the regions don't. Why are they named and the counties not?

Ms Boeckner: I think what we're saying is that, by and large, they do meet it. Certainly it's not reasonable when a policy statement comes in to expect that an official plan will automatically come into effect. It takes time to do the research and mapping and to take policy through public consultation.

Mr David Johnson: I think the counties may feel like second-class citizens with the regions being played favourites here. The regions are given the benefit of the doubt and counties aren't. Have you discussed this matter directly with some of these counties?

Ms Boeckner: Absolutely.

Mr David Johnson: We have AMO's resolution. I presume that the counties are in support of AMO's resolution.

Ms Boeckner: We are working directly with many of the counties in the preparation of their updates or their

first official plan. As I say, many of those programs are well along the way. For instance, we have a new county plan in from Prince Edward county and we're working with Victoria county. I think we have a Peterborough county plan in very recently. Bruce and Grey counties are well along the way and they both have draft county official plans that are going under public scrutiny.

Mr David Johnson: If they're well along the way, why would you not say, "Yes, we agree with their inclusion in here"? You've said that with the regions. You've said some of the regions do not comply but they're close. Now you're saying that some of the counties do not comply but they're well along the way. So why not take the same attitude to the counties as you've taken to the regions?

Ms Boeckner: I think there is a huge gap between the regions and the counties in terms of their policy and in terms of their basic content. When I say they're well along the way, the public still has not seen the final official plan and the county has not adopted.

Mr David Johnson: Is it reasonable to apply the same yardstick to the counties as to the regions? Many of the regions represent very urbanized and dense populations whereas the counties may have a different situation, maybe different communities. Do you think it's fair to use exactly the same yardstick against both?

Ms Boeckner: I think it definitely is fair. Many of the counties also contain urbanized areas. Many of the regions contain vast areas of farmland such as Haldimand-Norfolk, for instance, or Halton.

Mr David Johnson: I'll just say then, and somebody else may want to pick up, but it seems to me that there's a danger here that the counties are not being treated in the same vein as the regions. I sense that that's their opinion and that may be AMO's opinion as well. It certainly shows that it's difficult for municipalities every five years to update an official plan, and that's been my contention all along. I think that's a guideline that sounds good but in a practical world it's very difficult to achieve.

I think there's a possibility that this bill is going to be used as a stick to club the counties and to bring them into submission with the policies or else they won't get this approval authority that the regions are getting through the same bill. That's a concern to me, and I don't know if the government wants to make a comment or not, but that seems to be kind of the core of the concern I think that AMO has. It's certainly my concern.

Ms Boeckner: I think we would like to get to a position where the regions and counties could be treated in the same way and I hope that there is enough incentive in the bill and also enough incentive with the ministry working with the counties to get them up to that level. But I would have to point out to you that, as the chart shows, there is very limited policy context to guide growth and to guide development in the counties.

I don't mean to paint them all the same way. Some of the counties, as you can see, have either satisfactory or indeed very strong food land policies, for instance, or mineral aggregate policies, but many of the counties do

not have county planning departments at all. Some of them have county planning departments that perhaps consist of a director and that's all.

Their research and policy development capacities are not as high as the regions' are. Most of the regions have very large departments and are able to carry out research and policy development. There are certain indications that the counties are developing that way, but they're not there yet.

Mr McLean: Could I have a clarification then? How many staff do you think that a county should have before they would qualify to do the work that you think they should do in order to have the approval process? I mean, you've got a planner. He's professional. He can have a secretary or whatever he needs. Now you're telling me that they don't have the big staff that the region's got. How many staff would they have to have in order to carry out a proper planning procedure in a county?

Ms Boeckner: I certainly see the point that the member's making, and we don't have a number. We've never had a number, and I don't think that anyone could say that there is a number. Certainly a county might choose to have a planning director and then to have its research carried out, for instance, by consultants. There's nothing wrong with that.

Mr McLean: Well then, is there anything wrong with that? I know the county of Simcoe has a planning director. They have consultants who do work for them, and you're telling us that unless they have the amount of staff on staff, it would not be feasible to have an official plan approval done.

Ms Boeckner: I think I was pointing out the differences between the counties and the regions. I agree, if Simcoe county has a planning director and they have some restructuring in place there, they will be moving towards a setup of a larger planning department, but that's going to be a phased-in process. I understand the director has assembled all of the planners from the local townships under a technical committee to guide the terms of reference for the new Simcoe county plan, so they are using some creative staffing resource in that situation.

The Chair: Are we ready for the vote?

Mr Eddy: Mr Chair, I indicated that I wished to speak on the matter. I had my hand up.

The Chair: Yes, that's fine.

Mr Eddy: After adjournment is all right.

The Chair: We can come back after recess and complete the questioning on this matter. We'll recess until 2 o'clock this afternoon.

The committee recessed from 1201 to 1407.

The Chair: Mr Eddy, you were on the list to speak to the Liberal amendment.

Mr Eddy: Yes. We had some concerns about the whole matter, because indeed the regional municipalities are being treated differently from the counties, and we have to realize that one of the counties is indeed a region. It's the restructured country of Oxford, which meets all the criteria for a regional municipality, so it's rather odd that it has been left out.

One region of course is left out completely, Metropolitan Toronto, and I'd like some comment at some time—that can be later—about the rationale for that. I note that the region of Waterloo has a policy official plan rather than a land use plan. However, I'm willing to proceed with the vote as you called it, knowing that the ministry is opposed. I'm prepared to vote for the amendment. I support the amendment and I will vote for it.

The Chair: Mr Wiseman is about—

Mr Jim Wiseman (Durham West): We have no comment on this.

The Chair: Mr Wiseman, what do you want to do? Are you ready for the vote?

Interjection.

The Chair: Very well. All in favour of the Liberal amendment? Opposed? That's defeated.

Moving on, PC, same motion.

Mr McLean: Same vote. I'll withdraw because I don't think I have the chance of—

The Chair: Same vote. It's withdrawn. Otherwise, I would have to rule it out of order.

Okay, a Liberal amendment.

Mr Eddy: Mr Chair, I did ask, because of the importance of the municipality of Metropolitan Toronto—and it is considered, I believe, with the category of regions, realizing one region is a district and one region is a restructured county, the variation in names—could we have the rationale about Metropolitan Toronto? Is that possible now or at some time?

Mr Hayes: We can't, not now. It's not in the amendment, so we'll deal with that at a later time.

Mr Eddy: Oh, when the government presents an amendment.

The Chair: Let's do that, Mr Eddy, when we get to it. We have a Liberal amendment, subsection 17(3). Do we have a Liberal member presenting this?

Mr Eddy: I move that subsection 17(3) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted:

“(3) Despite subsection (1), on the day that the minister approves all or part of an official plan of the regional municipality of Peel, the regional municipality of York, the county of Peterborough or any other county, the regional council or the county council, as the case may be, is the approval authority in respect of the approval of an official plan of a local municipality in the regional municipality or the county.”

This, it seems to me, will bring some important change to the way the counties are treated, and indeed Peel and York. Although that's been included in the act, I think this is improved wording, and we would like the other municipalities to be included along with those regional municipalities that have been selected.

What it means is that those counties that have proceeded to do the necessary work to have an approved official plan—and we've heard that many counties are not up to par in planning. Of course, it's not very long ago that counties could not be designated municipalities under

the previous act; indeed, it was a late amendment of just a very few years ago. I think they've done extremely well.

Counties vary the same as regions. Some have one-tier planning and some have two-tier planning. I think we need this change for the county governments, those that have proceeded and progressed in the planning field, to be acknowledged and treated as upper-tier municipalities sophisticated in the planning process, to recognize that.

The Chair: Mr Johnson.

Mr David Johnson: I thought we were still on the previous one. I got caught.

The Chair: That's all right.

Mr David Johnson: I think that went through but maybe, looking at this one, I can still speak to the same issue. I think Mr Curling had a conversation about this a few moments ago as well.

Mr Curling: Yes.

Mr David Johnson: I don't know if he's introduced it yet, but I have been contacted and Mr Curling has been contacted by the planning commissioner of Metropolitan Toronto.

Naturally, as you can see from the list that's before us, Metropolitan Toronto is not included in the list of regional municipalities that will have authority to give approval to local plans. I wasn't on the list of committee members when either the region or the planning commissioners made their deputation, but as I understand it, the regional chair and the regional planning commissioner—

The Chair: Mr Johnson, do you think what you're saying pertains to this particular motion?

Mr David Johnson: It does contain words in it such as “official plan of the regional municipality of Peel.” We're on 35, aren't we?

The Chair: Yes, we are.

Mr David Johnson: It's talking about the regional municipality of Peel, the regional municipality of York, and it says, “authority in respect of the approval of an official plan of a local municipality,” so it seems to me, and the clerk agrees, that it's close enough. It's the general issue, Mr Chair, and this is maybe a spot to raise it, notwithstanding the staff are shaking their heads in total disagreement over there. This is a quagmire, I realize, and I've been there myself, so I guess all I'm asking—

Mr Hayes: You used to be mayor, didn't you?

Mr David Johnson: Yes, and I know that had I still been mayor I would be representing the opposite view at this point in time. But as information and as a point of discussion, could the parliamentary assistant and/or the staff put forward the rationale for excluding the largest region in the province of Ontario—

Mr Eddy: I would say it is.

Mr David Johnson: —it's got to be, population-wise—a region that would have perhaps the most sophisticated official plan, or near it, I would think, in the province of Ontario. Why is it excluded from approving the plans of the local municipalities?

Mr Hayes: Why are they not in the amendment here?

Mr David Johnson: Yes. Well, why are they are not—

Mr Hayes: It's a Liberal amendment.

Mr David Johnson: Why are they not included in the bill? I think you know, Parliamentary Assistant—

Mr Hayes: Oh, I see.

Mr David Johnson: Good point there.

Mr Hayes: I think this is an issue that we discussed during the hearings, and at this time it was felt by the provincial government that we do not automatically include them mainly because they themselves are reviewing their own governance at the present time. For us to make decisions would probably be premature on our part.

Mr David Johnson: Is the provincial government doing or contemplating any sort of review within Metropolitan Toronto?

Mr Hayes: Not at the present time we aren't.

Mr David Johnson: So when you allude to the fact that they are doing their own review, could you be more specific as to what you're referring to?

Mr Hayes: They are reviewing their own governance is what they're doing. Exact details—

Mr David Johnson: Who is "they?"

Mr Hayes: Metro, the one you're talking about.

Mr Grandmaitre: Metro or Toronto?

Mr Hayes: Metro.

Mr David Johnson: So it's your opinion that Metro has a study that's under way to review. There may or not be certain questions on the ballot this fall. I'm not even sure where that stands.

Mr Hayes: Mr Chair, I don't want to cut anybody off from speaking, but for us to get into the issue of talking about a municipality, it doesn't relate to this amendment. It's not in here.

Mr David Johnson: It could be included.

Mr Hayes: Why don't you put it in then?

Mr David Johnson: I guess it could be included. It could be included, and I'm just interested in knowing the rationale—

The Chair: If I could, Mr Johnson, and the Liberal member might correct us, the particular motion speaks specifically to certain communities, does it not?

Mr Curling: It does, but—

Mr Hayes: No, no. No "but."

The Chair: Yes or no? Who moved that? Mr Eddy, did you move that? Mr Eddy, can I just ask you, it speaks to particular communities, does it not?

Mr Eddy: Well, it's rather open because it does say "or any other upper tier."

Mr David Johnson: You weren't supposed to say that.

The Chair: Go ahead, Mr Johnson.

Mr David Johnson: Parliamentary Assistant, you'll be delighted to know that the local municipalities in Metropolitan Toronto would support your position. But

just for the record then, it's your view that because Metropolitan Toronto is undergoing some sort of review itself—

Mr Hayes: Yes.

Mr Eddy: So is London. Greater London is also under review.

Mr David Johnson: —the government is not prepared to include Metro with all the other regions in terms of approving local official plans.

Mr Hayes: Not at this time.

The Chair: Other questions? Mr Curling.

Mr Curling: I just wanted to say too that while we can't do all the job for the government and while we attempt in some respects with these amendments to say things that are left out, we hope the members here will see to it that they support this amendment because we found another deficiency in the government bill.

Further to that, we have heard, all of us who were present at the time Metro came before us and made their case—and we know they are a legitimate group, organization, region, whatever category you put them under—where they cite also that there are other people who are similar to them and got approval authority under this act and they found themselves left out.

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So I'm saying to you, as you try to explain it—I'm not quite sure if I got the proper explanation—they were excluded from yours, and now you want to say they're excluded from our amendments. However, there were provisions made in our amendments for any other county that you may see would be included in this. Should Toronto be placed in this, would you also approve this and look at it and come up with a better amendment than what we have done now, inclusive of Metro Toronto?

Mr Hayes: I'm sure that we could, but we don't see it's necessary to do so.

Mr Curling: So you don't see it's necessary because you don't think they have the authority. Why would you feel it would not be necessary to have placed Toronto in this one?

Mr Hayes: We are back in the same situation again, Mr Speaker, where we have to continually answer the same question. It's the same question Mr Johnson asked, and I did say that they were reviewing their own governance at this time and we felt it was better to wait and see what they decided they wanted, not what we decide they should have.

Mr Curling: It's my understanding too that there are other regions that are reviewing internally their structure but still were given authority. What would make a difference then? Are there any other regions that are reviewing? My colleague here made mention of—is it London that is—

Mr Eddy: Greater London.

Mr Curling: Greater London is reviewing.

Mr Eddy: The new London.

Mr Curling: Yes. Why would they, who are reviewing internally, be given authority, if they are, and Metro will not be considered?

Mr Hayes: I think when you talk about London and you talk about the structure that's set up in Metropolitan Toronto, you're not talking about the same kind of system.

Mr McLean: It's a one-tier region; the difference between one-tier and two-tier.

Mr Curling: Did they ask then, because they are reviewing their structure, that they would like to be excluded from being given the authority now and that is the reason why you did not give—

Mr Grandmaître: Metro asked to be excluded.

Mr Hayes: I think you members were here when—who was the mayor there?

Mr Curling: Lots of them.

Mr Hayes: Mel Lastman, I think it was, a few weeks ago.

Mr Curling: Mr Lastman and Mrs Trimmer and—

Mr Hayes: I think they were of one opinion and others were of a different opinion.

Mr Curling: Yes, but the minister, what was his opinion on this matter? Because we even showed you where AMO sometimes agrees on certain things and you ignore it. We know that some of the mayors—

Mr Hayes: I think Mr Lastman's opinion was that he didn't want it, if you can recall.

Mr Curling: Yes. Mr Lastman didn't want it; we know that. I'm saying Mr Tonks wanted it. Now, the arbitrator in all of this would be the minister and yourself. I'm speaking to the minister through you. Did he decide then that he did not want Metro in this one?

Mr Hayes: For the reasons that I gave you several times, yes.

Mr Curling: In other words, no. The minister decided—

Mr Hayes: They're doing an internal thing, so we're not going to stick our nose into it at the present time.

Mr Curling: I hear what the parliamentary assistant said. He doesn't want to stick his nose into any of the internal business. Bill 163 is a sticking-the-nose business. It goes into every one of the municipalities and tells them, "This is the comprehensive policy and this is how you should operate and your official plan must be consistent with...", sticking their nose into it and saying, "You get in line, or else." Now I'm hearing from the parliamentary assistant that—

Interjections.

Mr Curling: Mr Chairman, I would just like to know how many meetings are going on.

The Chair: We have your attention, Mr Curling.

Mr Curling: I can see that.

The Chair: Just move right on. Take your time.

Mr Curling: I am. You are saying the minister decided that he did not want to stick his nose into Metro, so he excluded them out of this process, so therefore they did not get any authority. I just want to understand that.

Mr Hayes: What I'm saying to you is that they are reviewing their governance and when they decide or if

they can come to some sort of an agreement, then of course this government will look at the situation.

Mr Curling: Could I ask one last question, then, my last question? Does this government, the NDP government of Ontario, recognize Metro Toronto as a legitimate government organization, institution?

Mr Hayes: Certainly they are. Everybody knows they are.

Mr Grandmaître: Again to the parliamentary assistant, the fact that Metro is doing an internal review didn't prevent you or the minister or the ministry from giving the five, let's say, remaining municipalities, excluding Toronto, that approval power, right? You excluded, really, Toronto, because Mr Pomeroy, who chairs the regional chairpersons in this province, told us that he was the spokesperson for all chairs, including Metro, and he was asking that Metro be recognized. Metro didn't ask to be excluded from this bill. Am I right or wrong?

Mr Hayes: I didn't say they were.

Mr Grandmaître: No, I'm asking you—

Mr Hayes: Some of the lower-tier ones had indicated to this committee that they did not want Metro to have the authority.

Mr Grandmaître: But when Mr Pomeroy came before us, he was talking for or representing Metro, or Metro's chair, and he said, "For God's sake, give Metro that power." Now I want to find out if they excluded themselves because they were having some kind of an internal review. Who chose to exclude Metro?

Mr Hayes: This government has not excluded them; we're letting them proceed—

Mr Grandmaître: You are excluding Metro.

Mr Hayes: No, no. We're letting them proceed with their review. That's what we are doing. That's where we're at. I don't know how many more—

Mr Grandmaître: So for the time being, you are excluding Metro.

Mr Hayes: For the time being, we are not going to give Metro that authority.

Mr Grandmaître: My question is a very simple one: Who decided to exclude Metro?

Interjection.

The Chair: I'm sorry, Mr Eddy, but I'm going to read everybody the motion and then I'm going to rule this discussion out of order as it relates to this issue, okay? I don't mind having some discussion, but when it drags on and it doesn't relate to the motion, I think we need to deal with it. It says:

"Despite subsection (1), on the day that the minister approves all or part of an official plan of the regional municipality of Peel, the regional municipality of York, the county of Peterborough or any other county, the regional council or the county council, as the case may be, is the approval authority in respect of the approval of an official plan of a local municipality in the regional municipality or the county."

Whatever you have been discussing does not pertain to this motion. I ask you either to speak to the motion or we

move on and we call the question on this matter. All right?

Mr Eddy: I understand that the main reason for including the municipalities, of course, whether they be regions, counties, whatever, is the delegation of approval. The upper tiers that are named will have the delegation of approval where there are lower-tier municipalities with official plans. What happens to those upper tiers that are not named that do have area municipalities with official plans?

The point I'm getting at is the cost of approving official plans. I'm saying you're doing this because I think it will reduce—it's to expedite, and I think it will hurry things along in some instances, perhaps. I'm hopeful of that. But there will be an additional cost, it seems to me, to the upper-tier municipalities named that are granted approving authority. What about those that are not? Will the province continue to be responsible for reviewing and examining? If so, that seems to me a cost that is not passed down, whereas in the other upper tiers it is a cost that is passed down.

1430

Ms Boeckner: For those areas that will receive the assigned or the delegated authority, in our opinion, there will be no extra costs involved because those approval authorities are probably doing all of the work now in that counties or regions review official plan amendments from the local tier now. They do a circulation in their own area—they might circulate to conservation authorities or local health units and so on—and then provide comments to the province. In our opinion, they're basically doing a lot of that function now, so the costs would be quite minimal.

Mr Eddy: Yes, but the other part is those upper-tier municipalities that have area municipalities with official plans and are not delegated the authority do review.

Ms Boeckner: The question is?

Mr Eddy: It seems to me the province will continue that function and therefore that's a cost that the province will be bearing, that will be borne by the people in upper tiers who are doing it at the upper-tier level, whereas in—I can't mention Metro—a very large region, the largest region of all, it will be done by the province. What I'm saying is the cost. You're passing the work down. You say it isn't a cost, but you're passing the authority down to the upper tiers, from the province to the upper tiers, for the locals. What happens here in Metro? You'll continue to do that?

Ms Boeckner: The status quo would continue.

Mr Eddy: Or are you going to treat the constituent municipalities of Metro as single-tier municipalities, perhaps, and delegate—

Ms Boeckner: No, their official plans and official plan amendments would continue to come to the province. It's the status quo.

Mr Eddy: That's where I see the difference in the cost.

The Chair: All right, I think we're ready for the vote on this matter.

Mr David Johnson: Mr Eddy has twigged some thoughts on this thing. Today, the regions comment on official plans of local municipalities but they do not approve.

Ms Boeckner: No, that's correct. Most of the regions have official plan approval authority now. They have been delegated it by the ministry over the years.

Mr David Johnson: So Metro is an exception in that regard?

Ms Boeckner: York and Peel, of course, do not have that. Muskoka doesn't have it either.

Mr David Johnson: So you're saying that most of the regional municipalities even today have approval authority on local municipal plans?

Ms Boeckner: That's right.

Mr David Johnson: In a sense, then, what's being delegated here primarily is—you're sure of that?

Mr McKinstry: Yes, in fact that is the case. We want to make sure that rather than the minister being accountable for the decisions, the region is accountable. That's the difference between delegating, where the minister remains accountable, and assigning. The act actually gives the power to a different level of government.

Mr David Johnson: So who is the benefit for? You want the region to be accountable. Presumably, there's some benefit at the regional level for that accountability, or there's some benefit to somebody for the region being accountable.

Ms Boeckner: We feel the benefits are in the streamlining, that you take out a level of approval, being the province, and put that down to the region so that the over-the-counter service is at the region, and hopefully that streamlines the process.

Mr David Johnson: Conversely, when the region doesn't have that approval level, the process is not streamlined, I presume. That's just the opposite of what you said.

Ms Boeckner: We would hope to put some streamlining measures in there, such as reducing the duplication of applications and concurrent circulations, one-window approval at the province.

Mr David Johnson: Are you saying that for those regions and counties that do not get the approval authority for local official plans you would be putting in place other procedures that would streamline the process?

Ms Boeckner: Yes, that's right. We're moving towards those now. You might have heard about some of the Dale Martin task force initiatives, such as the one-window approval at the provincial level, where we don't do as much circulation as we did before. We provide a one-window service at the Ministry of Municipal Affairs, and front-end commenting, which we are doing in a number of other counties. The complete application is another pilot project. These are all serving to streamline the process.

Mr David Johnson: I think beyond streamlining the other benefit that might perhaps be put forward would be, for example, transportation issues. Transportation issues may transcend local boundaries. Transportation planning

on a broad basis, in a regional or county basis, may be important. If you have local official plans that don't jibe with a region's view, let's say, on transportation, it may be difficult for the region to plan efficient transportation. Consequently, by having the region have the approval authority of local plans, the region is better positioned to ensure that there's a uniform approach to broader issues such as transportation. There may be public transit, there may be other aspects as well. Would you agree with that?

Ms Boeckner: I would agree completely, yes.

Mr David Johnson: All right. You would also agree that a region that doesn't have that authority would lose out to some degree or would lack those same benefits?

Ms Boeckner: Presuming that you're referring to Metro, I think that in that case—

Mr David Johnson: I can't refer to Metro, but since you've raised it, yes.

Ms Boeckner: It would be the only one that would not have the authority. Then I think we have to put in other mechanisms to take the place, such as using the office of the greater Toronto area and the Ministry of Municipal Affairs.

The Chair: All in favour of this amendment? Opposed? That is defeated.

There's a PC amendment and it's identical, so we might encourage you to withdraw it.

Mr David Johnson: In the interests of time—is that correct, the essence of time?

The Chair: Sure. Withdrawn.

Mr David Johnson: I don't know what that expression means exactly. We withdraw it.

The Chair: Not moved. Liberal amendment, subsection 17(3.1).

Mr Curling: I move that section 17 of the Planning Act, as set out in section 10 of the bill, be amended by adding the following subsection:

“(3.1) Any official plan, official plan amendment, bylaw, subdivision, consent, site plan or minor variance approved in accordance with this act and any municipality to which they relate shall be conclusively deemed to be in compliance with the policy statements issued under section 3 upon approval.”

Mr David Johnson: Could we have a comment from the parliamentary assistant?

The Chair: Mr Hayes, do you want to comment?

Mr Curling: Yes, how does the parliamentary assistant feel about this?

Mr McKinstry: I draw the committee's attention to a previous motion, and I don't have the number of it, which actually stated something quite similar and which passed the committee earlier today to say that official plans will be deemed conclusively to be consistent with policy statements once they've been approved. In the government's view, that is the appropriate step to take as opposed to this motion.

Mr Eddy: That leaves the question why? Because official plan amendment is part of the official plan. It would seem to me at the very least that if you're going

to allow it to be deemed under an official plan to be consistent, then why wouldn't an approved amendment and the other things that are mentioned, which are all part of the planning process and would seem to me to be very important? I guess the question is simply why? I didn't want to make it that short, of course.

Mr McKinstry: In fact, an amendment is part of the government motion, so official plans and amendments. The other Planning Act instruments are not. The view of the government is that the official plan sets a broad, general framework for the municipality and it's a critical document for the municipality. We wanted to give the municipality the certainty that the official plan itself was deemed to be consistent. The other documents are far more detailed and they should make reference directly to the policy statements.

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Mr Eddy: Did you state that the government motion will deem official plan amendments as well? Did you say that? I think you said that.

Mr McKinstry: Yes.

Mr Eddy: And amendments thereto?

Mr McKinstry: What it says is, “An official plan or part of an official plan approved by an approval authority.”

Mr Eddy: That would include an amendment, of course?

Mr McKinstry: Yes.

Mr David Johnson: Just a further elaboration: “An official plan or an official plan amendment”—would you tell me once again why subdivisions wouldn't be considered in the same light as official plans or official plan amendments?

Mr McKinstry: As I mentioned to Mr Eddy, the subdivisions zoning bylaws are very specific documents and the view of the government was that they should make reference directly to the policy statements as opposed to only having to conform to the official plan, that the subdivisions zoning bylaws, consents, should make reference directly to the policy statements because they're often much more detailed documents than the official plan.

The Chair: All in favour of the Liberal amendment? Opposed? Defeated.

The identical—

Mr David Johnson: I'll withdraw it.

The Chair: Government amendment.

Mr Hayes: I move that subsection 17(9) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted:

“(9) The council shall ensure that in the course of the preparation of the plan adequate information, including a copy of the current proposed plan, is made available to the public and, for this purpose, shall ensure that at least one public meeting is held, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed.”

This technical amendment clarifies that the plan is a

proposed plan, so that it is clear, and that the plan may be subject to revisions as a result of public input without requiring a further meeting. It's all part of the streamlining process.

Mr Grandmaître: When I look at the bill and the amendment—the parliamentary assistant said it's house-keeping and I'm trying to decipher how much house-keeping has been done with this section.

Mr McKinstry: One of the things we've been told during our committee hearings and in our meetings with other folks is that in fact it wasn't absolutely clear in the legislation that at the time of a public meeting the plan that is presented there could be subject to revisions before being adopted. Some councils were concerned that they would be stuck adopting the identical plan that they had adopted at a public meeting without the chance to change it as a result of the public meeting. This is a clarification to make sure everybody understands. This is what we intended from the beginning.

Mr David Johnson: The other aspect that's changed is that in the original wording the public meeting was to be held by the council. In the revised wording it says simply that, "The council...shall ensure that at least one public meeting is held," but the implication there is that it doesn't necessarily have to be the council that would hold such a meeting. Who would you contemplate would hold such a meeting?

Mr McKinstry: Yes, you're exactly right. The other concern that was raised in that section was council saying to us, "We don't hold public meetings necessarily ourselves," or the regional council saying, "We don't hold public meetings necessarily ourselves, but we want to be able to have the ability to have our staff hold them or to have the lower tier hold them." Really, it's a way of saying it's council's responsibility to make sure the public meeting is held, but they don't themselves have to hold it.

Mr David Johnson: Are we talking about official plan meetings dealing with official plans?

Mr McKinstry: Official plans and amendments.

Mr David Johnson: Amendments could well be delegated, I guess. In terms of the official plan meetings, that's a serious topic to be delegating to staff in particular.

Mr McKinstry: The view of the government was that, in line with empowering municipalities, it felt they would be able to make that decision. We would assume that with a very important matter council would want to deal with it itself.

Mr Curling: Do I understand you to say that it is the council that will be holding the public meeting? The council will ensure that a public meeting is held?

Mr McKinstry: That's correct, Mr Curling.

Mr Curling: So the council will say to the staff, "Hold a public meeting." I was wondering. Council is the people who are elected, and they are accountable to the public. I felt that basically they would have organized a public meeting. But just any of the staff could go and organize a public meeting. There would be a guideline of what would be required in a public meeting?

Mr McKinstry: Yes. Currently, councils in fact often will delegate the holding of public meetings. So what we were doing was reflecting existing practice. But it's council's responsibility to make sure that a public meeting is held, and it's council's responsibility to think about the comments that are made. But they do have staff, and the staff can actually hold a public meeting if council wishes.

Mr Curling: There is no description of what would be defined as a public meeting?

Mr McKinstry: No. It's up to the council. It has to be open to the public and it has to be accessible and all those things, but we have no regulations on that issue.

Mr Curling: I'm just trying to understand.

Mr Wiseman: With respect to the public meeting and the content of the information that is made available for the public meeting, what provisions are there that if, for example, the public meeting is held and then the plan comes back to regional council to vote on and at that meeting a whole bunch of new changes are made to the plan, land is added that was not discussed with the public at the public meeting, what protection is there and what do we have that would say, "If you are now voting on something that you have not consulted on in its entirety, you have to go back out and hold another public meeting"?

Mr McKinstry: The way the act is worded now, it says that it "shall ensure that...at least one public meeting, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed." Before that, it talks about the fact that "adequate information, including a copy of the plan, is made available to the public." So the interpretation of that legislation would be that if there were such fundamental changes to the plan, that would not be adequate information for people to make a decision on their feelings about it, and therefore there would probably have to be yet another public meeting.

Mr Wiseman: Who would determine and tell the regional council that it should have another public meeting? Where does that come from?

Mr McKinstry: This will be the responsibility of council.

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Mr Wiseman: Whoa. Let's hold back on this one, then. History would indicate to me that this isn't going to happen. Where's the redress for the local citizenry? For example, let's take this hypothetical place in Durham and talk about its official plan that was altered by at least adding somewhere in the neighbourhood of 7,000 acres of prime agricultural land to its plan after the public meeting had been held, and this was done on the floor of council. Where's the safeguard? This is a meaningless resolution unless we put some teeth into it to say that councils have to go back and reconsult.

Mr McKinstry: I have a couple of answers to this; one is that the council does have a statutory obligation, so people could challenge it in the courts on the basis of that. The statutory obligation, then, is to hold a public meeting and to make sure that adequate information is

available. So their statutory obligation would extend to a judgement about whether they need a public meeting again. The other thing is that notice has to be given of the decision to approve, and there is the chance to appeal to the board. So there is still that chance to appeal to the Ontario Municipal Board.

So if a lower-tier council, for example, were adopting a plan, or let's say if it's your example, if it's an upper-tier council, it would go to the approval authority. The approval authority would then be able to review it.

Mr Wiseman: The approval authority for a municipal—

Mr McKinstry: For a region, it would be the Ministry of Municipal Affairs, the minister.

Mr Wiseman: Would they have the power, then, to tell the region: "Sorry, go back and consult with your public. This was not part of the original consultation"?

Mr McKinstry: The public would have the chance to make an appeal to the Ontario Municipal Board. That, in the view of the government, is the safeguard in the system. There is the right to get to the board on this.

Mr Wiseman: It's pretty costly. Mr Eddy was saying it looks like we're building a catch-22 in here that says nobody is directly responsible for telling the region it violated the spirit of the act other than some poor citizen who's going to take it to the municipal board. Why shouldn't the approval authority be able to say to the region, "Go back and talk to your people, because this is not what you talked to them about in the first place"?

Mr McKinstry: What we've done here is simply reflect the existing provision of the act.

Mr Wiseman: Well, yes, I know that. That's the problem. If we're going to change it, let's change it so that it has—

Mr Grandmaître: You're not streamlining.

Mr Wiseman: Well, I have some difficulty with this, I have to say. I would like to see some teeth put in here, to have an amendment to this amendment to say that if there are significant changes to the act that has been consulted on, that it must be returned to the public to be consulted on again.

Mr McKinstry: As I said before, there is a statutory obligation on council to hold a public meeting, and then there would be a statutory obligation to make sure that adequate information was available. That's the law.

Mr Wiseman: If this isn't changing fundamentally what is there now—

Mr Hayes: It's housekeeping.

Mr Wiseman: —then this is missing an opportunity to do something that would allow ratepayers and people who have entered into the process in good faith, gone to the first public meeting to make comments, to be able to make comments on a plan that has fundamentally changed from what they were asked to comment on in the first place.

Mr McKinstry: There is also the provision that separates the public meeting and the adoption of the plan to make sure that people have a chance to have an impact on the decision.

Mr White: On a point of order, Mr Chair: I'm wondering if it might be possible to stand this section down for a brief time so that Mr Wiseman can confer on this.

The Chair: It's not a point of order. If you want to raise it as a matter to stand down, we'll see whether there's unanimous consent. Is there unanimous consent to do so?

Interjection: Sure.

The Chair: We'll stand this matter down.

A government amendment.

Mr Hayes: I move that subsection 17(12) of the Planning Act, as set out in section 10 of the bill, be amended by adding after "person" in the eighth line "or public body."

This is also a technical housekeeping amendment to the bill.

Mr Grandmaître: Mr Chair, "after 'person' in the eighth line 'or public body,'" is this parallel to what we did this morning or the day before with the first nations, to include these people?

Mr McKinstry: This reflects the decision of the government to add public bodies to those people who can be dismissed if they don't get involved early. So what we're saying here is that in order to allow them to be dismissed they must be notified.

Mr David Johnson: Do I take it that this is simply—it's entitled "Information," the heading in the left-hand column. So this is just a notice? Is this just a notice procedure? It's a little difficult to read through the terminology. Is that what this is?

Mr McKinstry: My understanding is that it is a notice procedure.

Mr David Johnson: So if an individual's referral to the Ontario Municipal Board or, now through this amendment, a public body's referral to the Ontario Municipal Board is being refused, then they would be so notified? Is that what this does? I had to read through this.

Ms Elaine Ross: Perhaps I can clarify. I'm Elaine Ross, counsel with Municipal Affairs. All this section does is it says that at the public meeting there are certain things that council has to tell people, and one of the things it has to tell people is about the fact that they can be dismissed later if they don't tell people what their objections are now. So we've simply added public bodies to the list so they have to tell them that both persons and public bodies could be dismissed at a later time.

Mr David Johnson: Is this absolutely essential?

Ms Ross: Somebody could argue that "persons" doesn't include public bodies. So it's a technical amendment.

The Chair: Anything else?

Mr Curling: I wonder if it could be read including exactly what's following, because I'm trying to really place "persons" and place "public body" in it.

The Chair: Ms Ross or Mr McKinstry, could you read it with the additions in place? Is that it?

Ms Ross: "At a meeting under subsection (9), the council shall ensure that information is made available to the public regarding the power of the approval authority to refuse to refer a proposed decision under subsection (29) and the power of the municipal board to dismiss an appeal or a referral request under subsection (38) if a person or public body requesting a referral or an appellant has not provided the council with oral submissions at a public meeting or written submissions before a plan is adopted."

The Chair: Okay?

Mr Curling: Good. It's very helpful.

The Chair: All right. I think we're ready for the vote on this matter. All in favour of the government amendment? Opposed? That carries.

Mr Hayes: I move that subsection 17(16) of the Planning Act, as set out in section 10 of the bill, be amended by striking out "30" at the beginning of each of clauses (a) and (b) and substituting "14" in each case."

The bill currently requires a 30-day separation between the public meeting and the adoption of an official plan or amendment. This is designed to allow the public an opportunity to consider the proposal and the municipality to resolve any objections. In order to help streamline the system, this time frame will be reduced to 14 days.

As the members know, that was a concern, about shortening the time period and making municipalities go through a process over again, and we felt that this certainly would assist, give them time and also the public time and also shorten up the process, streamline.

Mr Eddy: I'd like to congratulate the government on going halfway, anyway, from 30 to zero.

Mr Hayes: More than halfway; we cut out 16 days.

Mr Eddy: More than half; a little more than half. It is streamlining it to a degree, but I think we had several presenters state that it could be almost forthwith were there no objections and it would streamline and speed up the process even further. I thought it was a good point that they were making, to get on with it, and I realize you're doing it halfway.

I notice we have an amendment. The PCs have an amendment with the same wording as we have, and you've gone most of the way. So that's a two-thirds majority. Let's get it out of there and strike it out.

Mr Hayes: We think a lot alike sometimes.

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The Chair: Okay, anything further? Mr Johnson.

Mr David Johnson: So this would click in if a plan—we're talking about official plans and official plan amendments here again, to start with.

Interjection: Yes.

Mr David Johnson: Is my understanding correct that if there are no objectors at the public meeting, then there couldn't be objectors after the public meeting? Is that the new process? No?

Mr McKinstry: No. Objections could be raised right up to the date of adoption.

Mr David Johnson: By anybody?

Mr McKinstry: Yes. But remember that is only adoption; it's not approval. An adopted plan goes on to an approval authority to be approved.

Mr David Johnson: All right, you've lost me there. But if the meeting is held, whichever one is referred to in section 16, who could object after that public meeting? Any ratepayer, any citizen of Ontario?

Mr McKinstry: Anyone could object.

Mr David Johnson: Whether or not they made a presentation at the meeting at all?

Mr McKinstry: That's right. You may be confusing this with the ability of the approval authority or the board to dismiss objections where people did not have early involvement. But that early involvement really should take place before adoption. The reason for the amendment in the first place, the reason for the separation between the public meeting and adoption, was first of all to make sure that people who may not be able to make it to the public meeting can have some chance to review it, and second of all to allow council and the people who object some time to work out their differences. It's been called the cooling-off period. The government still believes it is important to have that period but agrees that it can be much shorter.

Mr David Johnson: Okay.

Mr Curling: I'm not as generous and willing to congratulate the government for reducing that time; of course it is partway. After a public meeting is held, the public would have an opportunity to hear and to ask a lot of questions. Maybe if they had even done it for seven days, to say within seven days or so; 30 days, which they have considered to be extremely long and now have reduced to 14, I still feel that it's a long time for one to wait again.

I think that after a public meeting, within seven days—as a matter of fact, it could be struck out completely, because they would have an opportunity—but again, leaving a bit of room for digestion after the meeting, maybe the government should consider looking at reducing it even further, maybe within seven days. Those planners or developers who want to proceed with their project would then find that the time is shortened. Time is money, and that's costing a lot of people.

Did the government look at it to see what impact it would have if they had shortened it down to seven days? Would that be more beneficial, or did you just decide arbitrarily that it's 14 days we'll go for this time, halfway? Did you look at maybe striking it out completely or seven days?

Mr Hayes: We did look at that.

Mr Curling: And?

Mr Hayes: We felt that reducing it by 16 days was quite reasonable. Then you're still not excluding the public from being able to participate in the process. You're still giving them that time. So we felt that reducing it by 16 days was a considerable amount and quite reasonable.

Mr Curling: It was. I agree. That's 50% of the time. But did you look further to say that seven would be even better?

Mr Hayes: We're not sure whether it would be better. You still have to allow people—

Mr Curling: So you just arbitrarily picked a day and said it's that day?

Mr Hayes: We just tried to be reasonable, that's where we are.

Mr Curling: It's an attempt, but not a great attempt. That's okay.

The Chair: Any additional speakers? Seeing none, all in favour of this amendment? Opposed? That carries.

A Liberal amendment. It's rather different, if they want to move it actually.

Mr Curling: Let me read it into the record.

The Chair: You want to read it into the record to debate?

Mr Curling: No.

The Chair: Because that's what would happen.

Mr Curling: Can we just talk on it then if you don't read it into the record?

The Chair: No, because then there would be nothing in front of us. If you want to move it, have it passed or defeated, that would be all right.

Mr Curling: I feel that for streamlining the process I would read it and then tell you—section 10 of the bill. Let me move, Mr Chairman.

The Chair: All right.

Mr Curling: Section 10 of the bill, subsection 17(16) of the Planning Act:

I move that subsection 17(16) of the Planning Act, as set out in section 10 of the bill, be struck out.

The Chair: Okay. Speaking to them, Mr Curling?

Mr Curling: The arguments I put forward—I hope the parliamentary assistant heard—that eliminating the time would make it much more efficient, from my understanding, and I will anticipate his comment that he had looked at it, reduced it down to 50% and felt that was reasonable. I just wondered again, just for the record, you will not consider at all striking this out, would you?

Mr Hayes: We would not consider striking this out?

Mr Curling: This section out?

Mr Hayes: No, we wouldn't, Mr Chair. We have looked at it and studied it very hard and come to the conclusion that we are able to reduce it by 16 days.

Mr Curling: Is it? Not 14.

Mr Grandmaitre: Eliminate 16.

Mr Curling: Oh, I see.

The Chair: All right. Speakers to this? No? Then we move to a vote then.

All in favour of this amendment? Opposed? That's defeated. Mr Johnson.

Interjections.

The Chair: It's a similar vote here. It's the same vote, the same thing.

Mr David Johnson: Withdraw.

The Chair: Okay. Very well, moving on. Government motion.

Mr Hayes: I move that subsection 17(19) of the Planning Act, as set out in section 10 of the bill, be amended by adding after "refuse to" in the first line "accept or".

The bill allows the approval authority to refuse further consideration of an application if it is incomplete. It should be clarified that the approval authority also has the authority to refuse to accept an incomplete application, and the refusal to consider is contingent on the prescribed information, not additional information which the municipality may ask for.

Mr David Johnson: May I ask a question on that? Would that then mean that if, for example, the property owner had a proposal which required an official plan amendment to build on a property, and the municipality determined that the information was not complete, the municipality could refuse to accept the amendment on the first instance?

Mr McKinstry: Yes, that is true. This is a clarification and I guess some people would interpret that the way the bill is worded now, they could refuse to accept incomplete applications. I should be specific that there will be regulations that set out exactly what a complete application is, so that the approval authority and the applicant will know exactly what the information is. The reason this was done was to give some logic and some upfront information to everybody in the process, so everybody knew what would be required in an application.

One of the reasons we need to do this is because the new planning system works on the basis of time frames, so it's very important to determine when the time starts so that the applicant knows when he or she can go on to the board.

Mr David Johnson: What recourse would a builder have, let's say, if he disagreed. I'm heartened to hear you say that this will be specifically laid out as to what is required and, consequently, in a perfect world there won't be any contention over what is required and everybody will agree that it's complete or incomplete, but we live in an imperfect world and it'll only be a matter of time before there's a difference of opinion as to whether the material is present or not.

Having sort of been there myself, I know that happens reasonably frequently, actually. What recourse is there for such a person who feels that he or she has given all the information, and the municipality says, "No, it's not complete"? There may be a suspicion that the municipality just doesn't want to deal with it, so the clock won't start. What recourse does a person have in that case?

1510

Mr McKinstry: I'd suggest, first of all, that right now the municipality has no regulation, no guidelines on complete applications and so may, if it chooses, not deal with an application. Furthermore, there are no time frames, so there's no way that, if they don't accept it, the applicant could move on, unless they operate under section 22.

In the new system, with time frames, the application will be very much specified, but if there is a disagreement, if there is absolutely no way the municipality and

the applicant could agree, there is still recourse to the courts. My suggestion is that in fact this system will be better because it will be clear what the application should contain, as opposed to now, where it isn't clear what it can contain.

Mr David Johnson: If there's a difference of opinion—it may be better, it may not be; I guess we'll have to see—the applicant would have to take the municipality to court. I don't know how long a process that would be but I suspect it could well be years rather than months.

Mr McKinstry: I would agree that the courts are not the ideal solution. Our thoughts on the regulation on the complete application would be that it would be fairly bare bones, if you want. It would not contain a lot of extraneous detail. Furthermore, the municipality would not be able to require additional information over and above the regulation. They may ask for it but it won't form part of that complete application.

Mr David Johnson: In my experience at the municipal level, I was not aware that the municipality didn't accept any proposals, but those that were not as fully researched, I guess, or maybe the material wasn't as complete as others, took longer to go through the process. Consequently, if you wanted to submit a proposal—I can think of a few in my mind where they certainly weren't as detailed as we would like to have seen them. They just took a whole lot longer to go through because ultimately that kind of material had to come. So the developer and the builder, I guess, took his or her own fate by submitting a proposal. If they want to submit a proposal that's incomplete, then they suffer the consequences. But the municipality dealt with it in the fullness of time, it just took longer to go through the system.

I guess the system you've set up is different from that. You sort of reject that kind of approach, I suppose. I don't know what the question is, but do you have any comments on that sort of approach?

The Chair: Is there a follow-up? Would you want to add to this question?

Mr David Johnson: Let him respond.

Mr McKinstry: In the interests of streamlining, we put time frames in. Once the thing gets to the approval authority, for example, they've got 180 days to make a decision. So you need to have some point when that time starts. What could happen, if you don't have a complete application, is the applicant simply writes a letter and says, "We want to apply to redesignate a parcel somewhere in the northeast portion of Scarborough and we want to change it from residential to commercial."

The municipality won't be able to make any determination on that and therefore the 180 days would start ticking and therefore it's likely to end up before the board still without any information. Our attempt here is to get things clear and concise at the beginning of the process, get all the activities happening at the beginning of the process. So we see that this complete application is really an essential part of the process.

Mr David Johnson: It may work, it may have some problems. It's just when I see it phrased this way, one problem may be that the municipality, aware that the

clock is ticking, will be very picky about making sure that all of the information plus is sort of there before it accepts it, because once it accepts it, the clock is starting to tick.

It's fine if you're a municipality only dealing with one application, and the clock is ticking and you've got a certain number of planning staff—even a municipality like East York has a very limited number of planning staff and if they're dealing with three or four other applications at the same time, there are only so many hours in a day, so many days in a week, and it may be that a number of applications simply don't get into the queue in the first place, they're not accepted. Municipalities will have to be very careful to make sure everything's there before they accept them. That may be good or that may be bad, but I just have a sense that may be a consequence of this approach.

The Chair: Is that a question?

Mr David Johnson: I think it was a statement.

The Chair: A statement. Mr Grandmaître, did you have a point connected to this?

Mr Grandmaître: I have a statement, but I think Dave just clarified this.

The Chair: Very well. I have Mr Winninger first, Mr Curling.

Mr David Winninger (London South): I'll waive my question. That ground's been covered.

Mr Curling: Following on what Mr Johnson said, I think when we were doing the hearing, some of the people said that maybe it's not even necessary to have this legislation, because what we need to do is to make sure that we have an efficient system working, and what we're trying to do is to legislate all of these procedures. What we're trying to do here, of course, is to make sure that the process moves along very efficiently and quickly and not be held up.

I'm concerned really, though, at the front-end part of it, that if there are forms to be filled out before the clock starts, because the clock will start as soon as all things are in place—as Mr Johnson stated, there is no process in order to say, although the regulation will stipulate, as you said—we're hoping it will lay it out and say you fill out all these forms and then we start the clock ticking because everything is all filled out. What could be done in order to make sure that those things are not held up before the clock starts? The importance one time was after it was in that the clock starts ticking. Now they're going to say before all that's done, we must have this before we start the clock ticking or the process starts. Is there anything in here that would say you must move along to get the clock started so the time frame can be shortened?

Mr McKinstry: Yes, the approval authority is required to deal with the complete application, and it has 180 days to do that. If they don't deal with it, and the government will be introducing a motion to change that slightly later on, to make that shorter, the view of the government would be that you really need to have some kind of certainty in what that application is before you can start any clock ticking. It seems to me what happens

is that in the current system the municipalities get clogged up with incomplete applications and the staff spend all their time trying to get those applications complete, so when complete applications come in they too get held up. It seems sensible to say, "Let's define what a complete application is clearly so everybody understands, everybody will know what information needs to be submitted and then everybody knows when the clock starts ticking."

Mr Curling: Could I ask the question then—when I present my application that day, it would be assessed that same day and said: "You've got all your i's dotted and all your t's are crossed here according to the prescribed regulation in this form. It's in." When does that happen? Do they have to put that in and wait and they say: "I have a big batch on my desk. When I get to that and I put the okay in, the clock starts ticking." When do they start that process?

Mr McKinstry: The clock would start ticking on the day it's received, if it's complete. So if the staff don't look at it for a week and, looking at it, determine it's complete, the clock has been ticking already for one week.

Mr Curling: So once they put it in and they take it across from the counter, then—

Mr McKinstry: That's right, and it gets its date stamp, which most organizations place on.

Mr Curling: Okay. All right, thanks.

1520

Mr David Johnson: Did you say the material can't change once the clock starts ticking, the background material? Did I hear you say that? No?

Mr McKinstry: There's a limited amount of material that would be required as prescribed information. It's entirely possible that a municipality will say to a developer, "We'd actually like you to do this or that," but that is not part of the prescribed information. So they wouldn't be able to not accept the application. But there's always dialogue between developers and municipalities as applications unfold.

Mr David Johnson: I think of a case, I think it was in St Catharines, where there was a subdivision where there was a bunch of information that went forward but, after a public hearing or two, it was determined that they wanted to avoid some trees and the sewer line was rerouted. The sewer would be a fairly integral part, I guess, of an official plan amendment for a particular application. That would be something there would have to be a lot of information on. But as a result of compromise or agreement, partway through the process, to save a bunch of trees they rerouted the sewer line. Would that upset the apple-cart here at all if they had to redo all that sort of information and provide a new sewer route?

Mr McKinstry: I guess it would depend on the individual circumstances. If it completely changed the application it may be so, but in fact the application is already in progress. The developer has an application, so after 180 days if there's no decision made on that application it can be sent on to the board.

Mr David Johnson: That would be in the 180 days; it would be sort of during the process.

Mr McKinstry: That's right.

Mr David Johnson: Say somewhere around 90 days they made this determination that they needed a new route for the sewer to avoid the trees, which is a fairly significant change, would the clock start ticking over again?

Mr McKinstry: No.

Mr David Johnson: No? Would the applicant be able to make those kinds of changes?

Mr McKinstry: It's very hard to know without knowing the specific detail of the application.

Mr David Johnson: All right.

The Chair: Anything further? We're ready for the vote.

All in favour of the government amendment? Opposed? That carries.

Mr Eddy: This is section 10 of the bill, subsection 17(20) of the Planning Act.

I move that subsection 17(20) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted—this is very good wording, I understand:

"(20) The approval authority shall, as soon as practicable, notify persons and public bodies that it is considering the application and invite interested parties to view the material and submit objections within 30 days of the notice.

"(20.1) The notice shall specify the last day for submitting objections and that the failure to do so is grounds for the approval authority to refuse a request for referral.

"(20.2) If an objection is received by the approval authority within the 30-day period, the approval authority shall notify the council or planning board that adopted the official plan, plan of subdivision or consent, the person or public body that filed the objection and each municipality to which the official plan, plan of subdivision would apply if approved.

"(20.3) The notice shall specify that a period of 120 days is allotted for the council or planning board to resolve the dispute.

"(20.4) If the council or planning board makes a decision within the 120-day period, notice shall be given to the person or public body that filed the objection and each municipality to which the official plan, plan of subdivision or consent would apply if approved.

"(20.5) The notice shall specify that only persons or public bodies that filed an objection may, not later than 15 days after the giving of written notice is completed, request in writing that the approval authority refer all or part of the proposed decision to the municipal board."

This is recommended by AMO, which had a committee on the Planning Act and conferred with municipalities of various types to further streamline and present what we would consider improved wording for this section and would ask the ministry if it considered it and sees the improvements recommended.

Mr Hayes: I think you said something about that it

would really clarify things and it would—

Mr Eddy: Yes, hopefully.

Mr Hayes: Really, Mr Chair, no offence to the presenter of the amendment, but I find it very unclear and it certainly appears to me that it would really create confusion to the role of council and the approval authorities. Also, the system that we have now does provide clear time frames for the council and the approval authority to follow and a clear line of appeal. So I'm hoping maybe the members who presented this could explain to us really what it is. I think it would make it really hard for people to deal with this.

Mr Eddy: It is prepared and presented by people who will be working with the Planning Act on a day-to-day basis at the local level.

Mr McLean: After the next election.

Mr Eddy: I was thinking at the municipal level, but I don't want to comment on that other possibility.

The Chair: Other comments?

Mr McLean: Mr Chair, I would make the comment that we have another resolution here that is identical. It must be a good resolution or the two parties would not have come up with the same one. It's also been recommended by AMO—

Mr Hayes: You really do think alike, the two of you.

Mr McLean: —which represents some 842 municipalities. If that many municipalities are not being listened to, which I've observed since these hearings began and the clause-by-clause has begun, then I'm wondering if there's any need of proceeding with the rest of the amendments, if they're not going to be listening to what AMO was telling them.

The clarification I want to find out from the parliamentary assistant is, why does he not believe the 120-day period is more appropriate than what he has in his legislation?

Mr Hayes: I want to make a comment and then Mr McKinstry will comment also. For Mr McLean to say that we have not listened to AMO, its many issues—minor variances, the Trees Act, the list goes on and on—you will see as we go through that we have listened to AMO very well. I think they would certainly indicate that to you fellows if you spoke to them today.

Mr McLean: Could I have a clarification on that?

Mr Hayes: We'll let Mr McKinstry respond to Mr McLean.

Mr McKinstry: We've looked at this motion and the AMO recommendation, and it's still not clear to us how it streamlines the process, because what happens is that it can go to the approval authority, and it can go back to council, and it can go back to the approval authority.

Our sense was and the recommendation of the Sewell commission was that there be a clear line where the municipality does its work, the approval authority does its work, and there are time frames so people have a guarantee of moving through the system quickly without being referred back to a previous stage. So at the end of the system they can get to the board with some certainty.

Mr McLean: Could I have a clarification then? Has

the ministry had any communication with AMO since these 200 amendments have been tabled with regard to the concerns it has raised? If not, why have you not had communication with them?

Mr McKinstry: We've had many, many meetings with AMO up to, I guess it was last week, and we have had discussions with AMO on how we could meet its concerns. The government believes that in fact it has met the concerns of AMO to a fairly significant degree.

Mr McLean: My question was, since these have been tabled, have you had any discussions or meetings with them?

Mr McKinstry: We haven't had meetings since this week, but AMO's position has been clear for some weeks.

Mr McLean: That's certainly the indication we got as what they were wanting and that's why our resolutions, I believe, are so important to this process.

Mr Winninger: It just occurred to me that perhaps the reason why AMO put forward this elaborate objection procedure was to try and resolve some disputes without the necessity of going to the OMB. We've heard earlier in these proceedings that the OMB has initiated a number of very progressive measures, including alternative dispute resolution, that would be able to deal with some of these disputes perhaps in a much more expeditious manner than the municipalities are used to. I don't know if the ministry is able to confirm or clarify that, but it seems to me it's really unnecessary and overly cumbersome.

1530

Mr Hayes: You're right.

Mr Wiseman: He just articulated it.

Mr Hayes: I certainly couldn't have said it.

The Chair: We're ready for the vote then.

All in favour of the Liberal amendment? Opposed? That is defeated.

The PC amendment, similar.

Mr McLean: It's identical and it's a super resolution, but I will withdraw it in the interests of saving some time.

The Chair: Very well. We have a government amendment.

Mr Hayes: I move that clause 17(22)(c) of the Planning Act as set out in section 10 of the bill be amended by adding before "comments" in the second line "written."

This is a technical, housekeeping amendment to the bill.

Interjection: Again.

Mr Hayes: Again.

Mr McLean: So the comments, you want them to be written.

Mr Hayes: Yes, to be written.

Mr McLean: "If the approval authority proposes to approve, modify and approve as modified or refuse all or part of a plan, the approval authority shall give written notice of its proposed decision containing the prescribed

information to...(c) each person or public body that made written submissions or comments under subsection (13)...."

Why are you wanting to take the words "submissions or comments" out? You want to replace it with "written submissions or written"—

Mr Hayes: Before "comments."

Mr McKinstry: The reason we are making this motion is to clarify that the notice should be given to those who have made written submissions because there may be many oral submissions that the approval authority is not aware of. We want to make sure there's some certainty in who the notice should be given to, to limit the notice.

Mr David Johnson: Sometimes I lose track of who's who here, but in the case of Metropolitan Toronto, the approval authority—no, sorry, that's not right—in the case of most regions, the approval authority would be the region—

Mr McKinstry: That's right.

Mr David Johnson: —and the local municipality would be the council. Under subsection 17(14), for example, "The council shall provide to any person or public body as the council considers may have an interest in the plan adequate information...." etc. If the local council keeps record of who has expressed an interest and provides that information to the approval authority, why would not the approval authority contact those people as well?

Mr McKinstry: The approval authority would. In clause 17(22)(b) it says, "each person or public body that made a written request to be notified...(c) each person or public body that made written submissions or written comments...."

I think the issue here really has to do with public bodies and the fact that public bodies make written comments, and that should be reflected in that section.

Mr David Johnson: Where do you cover the case where individuals made oral comments through the process? I don't know what clause covers it, but suppose somebody made a deputation. It's not uncommon at all for people, on official plan amendments for example, to stand up before the council and make verbal comments. Many people don't have access to a typewriter or whatever, so they want to stand up and say their piece. But they haven't got it down in a letter. A municipality would keep track of that. They'd probably even appear in the official minutes of the municipality as having made a deputation.

Where here would they get notice from the approval authority if the approval authority proposes to modify or approve something that was modified, that same plan that those people have made verbal comments on?

Mr McKinstry: People can make verbal comments and the municipality will take those into account, but it seems to me that it would be a simple matter for individuals simply to write a simple letter that says, "Please notify me"; not to raise their objections in the letter, but to say, "Please notify me of your decision." That's what this section deals with.

Mr David Johnson: I don't know if you have attended many of these meetings or not.

Mr McKinstry: I have.

Mr David Johnson: I can tell you, there are a whole lot of people who come out and have a whole lot to say but don't put it writing. Here, when we deal with the people in this room at Queen's Park, we're accustomed to dealing in paper, but there's a huge chunk of the general public who are not accustomed to dealing with paper, writing letters, making simple statements on letters or whatever. They just like to stand up and say their piece, whether it's in Durham or wherever it is, and they would usually go on the official records of the local council as having made a deputation.

I can tell you, from a local point of view, woe betide the local council which doesn't keep those people up to date. They expect to be kept up to date, and certainly at any council I've been associated with, they have been. But here it seems to me that if the approval authority decides to modify, those people would be totally unaware of any modification.

Mr McKinstry: What we are trying to achieve here is some certainty for the approval authority so that they know who they're supposed to notify. People call up on the phone and say, "I object," and there needs to be some certainty so the clerk will know who should be notified of the decision. That's all we're trying to do.

Mr David Johnson: Well, suppose that certainty was that the information, let's say, that would flow from the local council to the approval authority contained the names and addresses of the people who had made verbal presentations, and the approval authority used that list as supplied by the local council as to who should be contacted in the event of a change or modification. That's a well-contained, controlled list and the local council can be trusted to keep the names of the people who made verbal presentations.

Mr McKinstry: One of the issues is that if people make verbal presentations, if people call on the phone, the clerk may or may not have their address.

Mr Eddy: It's taken at meetings.

Mr McKinstry: We're trying to just make it simple for the clerk and make it fair for the public.

Mr David Johnson: Well, I think you're needlessly complicating this. The local municipalities, at least any I've been associated with, keep track of the people who are involved, and it's not an infinite number of people. But people who do take the time to come out and to make a presentation, I think, could be greatly annoyed if a change was made and they weren't notified. I think you could rely on the local council to supply that information to the approval authority.

The Chair: Mr Curling, you're on the list.

Mr Grandmaitre: No. I think Mr Johnson just asked—

The Chair: Is there a question, Mr Johnson?

Mr David Johnson: Yes, I was looking for—

The Chair: We were very busy here.

Mr David Johnson: Yes, you were very busy.

The Chair: We were all actively using our collective heads here. I beg your pardon.

Mr David Johnson: Well, maybe you want to think about that. All right, why doesn't Mr Curling take over then.

The Chair: Yes, and we'll come back to you.

Mr Curling: In the meantime, I want to take up on what Mr Johnson is saying. I presume that those who are making verbal presentations—

Interjections.

Mr Curling: I'll wait on them again.

The Chair: I'm sorry, Mr Curling, did you ask me a question?

Mr Curling: Well, I don't know who I'm asking of the entire group that I'm speaking to.

1540

The Chair: I'm sorry. Repeat what you were saying.

Mr McLean: The parliamentary assistant is going to amend it.

Mr Curling: I'm saying then that—

Interjections.

Mr Curling: Oh, start again.

Mr Hayes: Mr Chair, I think that Mr Johnson has made a very valid point here, and as the PA to the Minister of Municipal Affairs, I am willing to withdraw this amendment.

Interjection: Hear, hear.

Mr Eddy: Mr Chair, the point was made too about names and addresses, and at any public meeting like that, names and addresses are taken of everyone who attends.

Mr Wiseman: That's right.

Mr Eddy: I guess we all knew that, sorry.

The Chair: Moving on, a PC amendment.

Mr McLean: I move that section 17 of the Planning Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Waiving of notice

"(22.1) Despite subsection (22), the approval authority may waive the notice required under that subsection if the modifications to the official plan are, in the opinion of the approval authority, of a relatively minor nature."

The question I have with regard to (22.1) is, at the end of (b), "each person or public body that made a written request to be notified of the proposed decision," why wouldn't you add "in writing" on the end of that clause?

Mr Hayes: He's saying add "in writing." That's not mentioned in his amendment.

The Chair: Are you asking for some clarification in terms of the question?

Mr Hayes: Yes.

The Chair: Could you clarify as best you can, Mr McLean?

Mr McLean: I'm asking the parliamentary assistant for clarification.

The Chair: I understand.

Mr Hayes: It's your amendment, Mr McLean.

The Chair: Could you enumerate again your question?

Mr McLean: That's the problem that I'm having too.

Mr Hayes: Would you explain your amendment to me?

Mr McLean: Well, the waiving of a notice is what we're wanting to discuss, but I'm not so sure it's in the right pew. I'm sure it's not, because it's waiving of the notice of 180 days, I believe. I think we have our amendments mixed up, if I'm not mistaken.

Mr Hayes: I don't know if there is a subsection (22) amendment.

The Chair: Yes, there is. Well, their amendment.

Mr McLean: I think we have the wrong number on that. It has to do with 180 days.

Mr Hayes: So you want to just withdraw your—

Mr McLean: I will set this one aside until I get the other number clarified.

The Chair: Stand it down then?

Mr McLean: Yes.

The Chair: Okay, we'll stand that matter down. The next one is a PC amendment.

Mr Eddy: Mr Chair, you have all of the Liberal amendments. Did you have one to subsection 17(22.1)? No, sorry. That's subsection 17(29). What section are we at?

The Chair: We are at subsection 17(22.1) at the moment, and we have stood that matter down.

Mr Eddy: Do you have a proposed amendment to subsection 17(29)?

The Chair: Subsection 17(29)? Yes. We're not there yet.

Mr Eddy: Okay, thank you. I'm overanxious.

The Chair: Mr McLean, with the next amendment.

Mr McLean: I have to go through all these amendments, Mr Chair, and I think some of my amendments are numbered inappropriately, from what I'm gathering here. Staff has handed me some that I don't believe—I have one here, Mr Chair. It's section 10 of the bill, subsection 17(24) of the Planning Act.

Interjections.

The Chair: A bit of order, please, so we can hear.

Mr McLean: I move that subsection 17(24) of the Planning Act, as set out in section 10 of the bill, be amended by striking out "30" in the second line and substituting "15."

Really, the bottom line is that we want to cut it back from 30 days to 15 days once the bylaw has been passed to prevent the long delay.

Mr Hayes: What we want to have happen here is we want to be fair to all parties that have an interest in an official plan or an amendment and 30 days, we feel, is a realistic time frame for making a referral request. If insufficient time is given, a person may request referral in all cases so as to protect his or her referral rights, thus creating unnecessary referral requests. So we feel that 30 days is a realistic time frame.

Mr McLean: I want just a clarification, Mr Chairman. I remember looking at some of these amendments and I think that you have a government amendment changing that to 14 days, do you not, from 30?

Mr McKinstry: I guess in a sense what we think here is that 30 days is really to give people the time to review the amendments and review the decision of the official plan. Even if it's a complete official plan, this is a lengthy document and people need some time to decide whether or not they want to refer it to the Ontario Municipal Board.

The other circumstance is when people are in fact making comments between when council has a public meeting and when the council adopts it. But I think the thing to remember here is that the 30 days at the end of the process, when they are referring it, is the final step. After that they can't do anything. So we felt that 30 days was a minimum period to make sure that everybody had their time to decide, because the 14 days, in fact they could still go on and request referral later.

Mr Curling: In the interests of streamlining and efficiency, I think the amendment put forward by the Progressive Conservative Party is quite reasonable; 15 days is quite an adequate time. I'm not yet convinced that it would require 30 days. Could the officials tell me why 30 days? What would be required in that time that would really take 30 days that could not be done in 15 days? All I'm hearing from the parliamentary assistant is that they have listened and they feel 30 days is quite adequate. I don't know what "adequate" means. I just wondered if there are a number of things they have to do in those 30 days if the time is so long, if it takes 30 days to do. Why could it not be done in 15 days?

Mr McKinstry: As I mentioned before, this could be a decision on an official plan for a region, so it could be a very, very significant decision. The government felt that people needed time to review that decision to decide on whether or not they wanted to refer it to the board.

I draw your attention to the fact that if a referral is not made within the 30 days, the decision is final, so it is a fairly significant point at the end of that 30-day period or, as you're suggesting, the 15-day period. The government felt that 15 days would not be adequate for people to review and think through an entire official plan or even a major official plan amendment.

We talked before about reducing the time between the public meeting and adoption of the plan to 14 days. The reason that was supported by the government was the fact that it is not the end of the process. People still have time to participate with the approval authority and still have an opportunity to request referral to the board at the end of the process. But the 30-day period mentioned here is the end of the process and there will be no further opportunities after that 30 days is over.

Mr David Johnson: When does the clock start ticking on the 30 days?

Mr McKinstry: I believe the legislation says the day after the day the giving of written notice is completed.

Mr David Johnson: And that's the written notice by the local council?

Mr McKinstry: By the approval authority, which could be the region or it could be the province.

Mr David Johnson: So the day after the approval authority gives notice the clock starts ticking on the 30-day period. That's strange terminology, because they really haven't given approval then if you can make deputations or appeal.

1550

Mr McKinstry: I won't make comment on legal drafting. I'm not a lawyer. But in fact—

Mr David Johnson: It is strange.

Mr McKinstry: Remembering back to the fact that there is still a 150-day time frame for the approval authority to make decisions, so if that time frame is not met, people have an automatic right to request referral. There are, too, some checks and balances in there, so the approval authority could not delay giving notice deliberately because they've still got the rigour of the 150 days.

Mr David Johnson: I understand there is a balance here all the way around. Maybe people are away on vacation or whatever and that sort of thing. But when you say that people need 30 days because it could be a complicated official plan, we have to bear in mind that people have been looking at this for quite some long period of time and presumably they're not waiting until this instant to try to understand it. Anybody who's doing that is not using the system the way you're intending the system to be used. So whether they're individuals or public bodies, they would have been looking at this plan for months through the local system, through the public hearings, that sort of thing. Anybody who is interested probably would know it forward and backwards by this time.

I'm a little hard pressed to accept the explanation that they would need the time to understand it. I think they would understand it fairly thoroughly by this time. The only thing that occurs to me is that some people do go away on vacations or whatever, so you need a certain period of time to account for that.

But would you not agree that most people, by this point, by the time the approval authority gets the official plan or the official plan amendment, should have had every opportunity to understand all the implications forward and backwards?

Mr McKinstry: I certainly agree that the intent of the process is to get people involved early. However, my experience with approving official plans, and I've had a fair amount of experience with that in the past, is that there can be dozens and dozens of modifications. While many of the modifications will be small, as our experience here shows it is, you really have to concentrate and go through very carefully each modification to see what it changes in the plan. So there is, in our view, some need to leave a 30-day window for people to consider that.

Mr David Johnson: Is there any control over the magnitude of the approval authority in terms of the change it can make to a local plan? In other words, it would be certain, as you say, that there would be modifications and small modifications obviously could work

out. But if the approval authority changes very significantly the local plan, does the approval authority (a) have that right, or (b) does the thing just get sort of thrown back to the local council and they say, "Here, do it again, because we disagree with it"?

Mr McKinstry: The practice certainly has been in the past that further notice is given for very large changes to official plans, and I think you really have to think a little bit about integrity of local councils, that they do have some responsibility to their local ratepayers. My view is that if it is a wholesale change, the council would have to go back to the public. However—

Mr David Johnson: The local council or the—

Mr McKinstry: The approval authority might have to go back to the local council or the local council back to the public. But in fact, if they did make wholesale changes, this is one way of letting people know that those changes have been made and letting them go—

Mr David Johnson: You see, the reason I'm asking is because I assume that the approval authority would not make wholesale changes, that the approval authority would approve it, make minor changes or refer the thing back, send it back to the local council if it felt that wholesale changes were required but let the local council have another crack at making the wholesale changes. Is that what the act contemplates?

Mr McKinstry: The current practice is that major modifications would always go back to local council for ratification, yes.

Mr David Johnson: What's intended under this new procedure? What would happen?

Mr McKinstry: I can't remember exactly what is required in the act but I would think that procedure would continue.

Mr David Johnson: If that's the case, then again the approval authority would not be making wholesale changes, and I agree. I think that's a good philosophy. I don't think the approval authority should be making wholesale changes. I think if they disagree with it on a wholesale basis, then they should send it back to where it came from for more public hearings. But if that's true, then it again raises the question, why do you need all of 30 days? If the changes are relatively minor, do you really need that many days?

Mr McKinstry: As I pointed out before, the changes might be minor but, as we've been finding in this committee, people need to think through them, talk through them and figure out what in fact they mean to the bulk of the plan, because there would be concern that one word of a change might mean major changes or it might not. So all I was saying was that the 30 days give people the time. Official plan documents can be very, very lengthy documents and you might have 50 modifications, so you have to read each modification in context with the plan itself. They may be minor, but it does take time to work through it.

I can't emphasize too much that this is the end of the process. This is where people's appeal rights would end.

Mr David Johnson: All right, and that's important. How long do you anticipate between when the local

council approves the official plan and when the approval authority receives the official plan?

Mr McKinstry: There's a provision in the act which says they must forward within 15 days.

Mr David Johnson: But in all likelihood it would take the latter part of that, so the general public would probably get, in terms of making an objection, the two weeks there plus the 30 days in subsection (24). Would that be a fair assessment?

Mr McKinstry: No, I don't think so, because the local municipality does its work and sends it on to the approval authority. It may be a region or a province—

Mr David Johnson: That probably takes a couple of weeks?

Mr McKinstry: That's the 15 days.

Mr David Johnson: That's the 15 days, two weeks, yes.

Mr McKinstry: And then the approval authority, if it's an official plan, has that 150 days to make its decision and then there's a 30-day period at the end of that to sort of make sure that people can refer it. Just to go back to why we made those decisions, there's a 180-day period for the municipality, and really what we're doing is giving the approval authorities 150 plus 30, which is 180. So we're doing what the commission suggested, which is to give two 180-day periods.

Mr David Johnson: I'm completely lost, then. I guess I missed this.

Mr McKinstry: I don't blame you, actually.

Mr David Johnson: So in actual fact, if you as a builder are looking for an official plan amendment, you will spend 150 days possibly, or 180, at the local level.

Mr McKinstry: The maximum time at the local level is 180 but that's an outside time.

Mr David Johnson: All right, you could spend 180 days at the local level and then an additional 150 days at the approval authority.

Mr McKinstry: These are time limits. These are maximum times, and if you think of the act now, there are no maximum times, so you could spend five years, and that's in fact been the experience of some municipalities.

Mr David Johnson: All right, but that's one whole year. So why is it that the approval authority—maybe we're straying here—needs 150 days and then another 30 days beyond that again for the objections?

Mr McKinstry: The 30 days is to make sure that people have the time to raise their referral requests. It isn't for the approval authority. The approval authority only has the 150 days at a maximum. If the approval authority doesn't need that 150 days, there is an absolute right for the applicant to go on to the Ontario Municipal Board. That would be the municipality, in this case.

Mr David Johnson: If the approval authority is a region, do you anticipate that the region would hold the public hearing during its 150 days?

Mr McKinstry: No, the local municipality is required to hold the public hearing.

Mr David Johnson: So why on earth would the region need 150 days?

Mr McKinstry: The region needs 150 days to analyse the project, to make sure that its regional interests are met and to make sure that provincial ministries are satisfied with the project.

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Mr David Johnson: It seems like a tremendously generous period of time, and if the approval authority is the provincial government, in terms of regional plans, then the provincial government would have 150 days.

Mr McKinstry: Maybe I can explain one of our difficulties in drafting this legislation. We're talking about 150 days, which could be for a regional plan or could be for a site-specific development of one acre. There's no way of distinguishing in legislation between those two and therefore we have said there is this maximum 150 days. Remember that there was no time before, so approval authorities could go for ever. We think we have taken a considerable step in moving towards a much more streamlined system. But the system has to accommodate all kinds of different applications, both the official plan and the small amendment.

Mr David Johnson: So if you had your preference, you would be able to distinguish between major official plans, let's say, and smaller official plan amendments, which you would agree should be dealt with a whole lot faster than 180 plus 150 plus another 30 days, which could take a whole year.

Mr McKinstry: That would be an ideal world. Of course, small amendments can also mean if there's a contaminated site and there are problems with the site, they can also take a very long time. So we're trying to have a reasonable frame here.

Mr David Johnson: I just hope that, having set a frame, the frame doesn't become the norm. That would be the problem and sometimes that happens, when you say that on some occasions today it takes a longer period of time. I think it's perhaps like speaking in the Legislature. Before I came, I understand at one point there was no maximum period of time that you could speak in the Legislature and then somehow it was imposed that lead speakers could speak an hour and half and everybody else could speak half an hour. From what people tell me now, people actually speak longer now than they did back then, on average, because now they feel they have to use the whole period of time that's allotted.

I assume a different mentality would perhaps take place with regard to planning, but that's a danger, particularly at the approval authority, where I think less time would be required than what's allocated, that municipalities may say: "Well, we have 150 days to deal with this, so we'll set that aside and that means some time next March we need to make a decision. We'll put a little notch on the calendar and next March we will dutifully make our decision." I don't know how you guard against that, but that would be a concern for me.

Ms Haeck: I guess I take a somewhat different view than Mr Johnson. I think the 30 days is in fact required. I'm thinking of ratepayers' groups in my riding that may

hold regular meetings, and the 30 days would in fact correspond to a month, and having monthly meetings where they may get together to draft a response would allow them to do that in their regular meeting schedule, whereas if you end up having it within a 15-day time frame, it would compromise the normal meeting schedule that most groups have.

I think 30 days does in fact allow ample time for community groups to have reviewed the remarks or the document and thereafter take some time to carefully frame their remarks as a collective and then submit them. Fifteen days, to my mind, just wouldn't allow for that.

Mr Grandmaître: While we're on the time frame question, can I ask staff, did you consult the OMB to determine the 30-day or 15-day time frame? Did you consult with them if your request was reasonable?

Mr McKinstry: We certainly talked extensively to the OMB about all of the planning reform package. I'm not sure why the OMB would care about this time frame, though. I'm not clear about that.

Mr Grandmaître: When I say "time frame," not specifically this one, but all time frames, you know, the 180 days, the 120 days and then the 30 days and so on and so forth, because they will be faced with some, let's say, objections and they would have to rule on these objections. Would the OMB have any input in it?

Mr McKinstry: I'm not clear. One of the things we've done for the OMB is to give it dismissal powers, and it has supported that. But I'm not clear why they would worry particularly about the time frames. The time frames don't affect them, so I'm not sure why they would worry.

Mr Grandmaître: Let me rephrase my question: Is it possible that an official plan would come before the OMB and the OMB would turn down this application because the amendment, for instance, wasn't clear enough as far as the OMB was concerned? Let's say the OMB is not totally satisfied with the objection.

Mr McKinstry: The OMB can request reasons for a referral or an appeal.

Mr Grandmaître: Is there a time frame?

Mr McKinstry: There are no time frames for the OMB.

The Chair: I think we're ready for the question.

All in favour of the PC amendment? Opposed? That is defeated.

Mr Curling: Section 10 of the bill, subsections 17(24.1) and (34.1) of the Planning Act:

I move that section 17 of the Planning Act, as set out in section 10 of the bill, be amended by adding the following subsections:

"(24.1) A referral by the crown shall only be filed by the minister.

"(34.1) An appeal by the crown shall only be filed by the minister."

I think the rationale for this is that it is felt that the minister in question here is the Minister of Municipal Affairs and any referral or appeal should not be just done by any minister who feels they object to certain aspects

of it and so they can appeal and make referral to the crown, but only the Minister of Municipal Affairs should be doing so. I think this is a safeguard to having everyone having a shot at this. Once we have a comprehensive policy, this would be very helpful in streamlining it.

Mr Hayes: The government is looking at the one-window appeal alternative. They're doing this through the provincial facilitator and work is being done on that right now. This does have merit, but we do feel that the amendment is certainly not required because this will be taken care of and dealt with by the provincial facilitator. They're working on a system now that would complement this.

Mr Curling: This has merit, but you're not ready with your other amendments or your facilitator who will look after this; we should more or less trust you that they will look after that.

Mr Hayes: Yes.

Mr Curling: But in the meantime we are doing legislation here now. We're going by legislative process, protection of all parties. We thought, why not put this in? We have seen legislation already that has been placed in other legislation. When that comes into place, you can repeal this section of this.

Mr Hayes: I will refer it.

Mr McKinstry: As Mr Hayes said, the government is trying to organize a one-window appeals approach. This has been done through the provincial facilitator and this is seen as a very good, very streamlined approach. However, there could be circumstances at some point in the future where an appeal by another ministry or agency is appropriate, and the government's not prepared at this time to totally remove that option, while we do want to move towards the approach that you're talking about.

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Mr Curling: Would you say, then, Mr Parliamentary Assistant, that this legislation is a bit premature in the sense that many of the factors and the support section of this legislation—that you're not ready and so therefore many of these things are very good amendments that we have put forward?

Mr Hayes: That your amendment is premature? Yes, I would say that.

Mr Curling: No, our amendment is right on. Maybe we are premature in the fact that this amendment is more ready than the legislation that is there and because you need a facilitator to do that support. I wonder if you could just step the whole legislation down until you have all those processes in place, so that when we put our amendments forward you could say that the facilitator did make provisions for that or was unable to make provisions for that, so that this could be accommodated.

Mr Hayes: The answer is no.

The Chair: Other questions? I think we're ready for the vote.

All in favour of the Liberal amendment? Opposed? That is defeated.

A PC amendment.

Mr McLean: It's very much the same. I'd be disap-

pointed if it was lost, but I can realize that the government has a majority and will vote me down, so I will withdraw it.

Mr Hayes: I move that subclause 17(29)(a)(iv) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted:

“(iv) the plan or part of the plan that is the subject of the proposed decision is premature because the necessary public water, sewage or road services are not available to service the land covered by the plan and the services will not be available within a reasonable time.”

The bill allows the approval authority to refuse a referral request based on a number of grounds including the prematurity of a development application. The amendment would clarify that a matter is premature if water, sewer and road services will not be available in the near future for the application which is dependent on these services. There was a concern expressed by the development industry and the Canadian Bar Association that the power to refuse a referral request on the basis of prematurity could be misused if the meaning of the term was not clarified. We have done what they have requested and clarified it.

Mr McLean: So you're taking out (a)(iv), withdrawing it, and putting the other one spelling out “because the necessary public water, sewage or road services are not available to service the land covered by the plan and the services will not be available within a reasonable time”? Are there not other areas that you could specify where you may want to propose a decision and deem it premature?

Mr Hayes: No, this is just really being specific. They asked for a clarification of what was premature and that's what we feel is premature. If you'd like Mr McKinstry to address that further for you, I'd request that.

Mr McLean: I think we asked for a clarification this morning with regard to “substantial” and I'm not so sure we got a definition of that. You're prepared now to give us a definition of “premature”?

Mr McKinstry: I think there was some indication earlier in these proceedings that in fact where terms are not specified in legislation they go back to the ordinary dictionary meaning. What we're saying here is that in these circumstances, and the circumstances are where the approval authority or the board can dismiss an application without a hearing, “premature” should have a very specific meaning, that it should not be open to a very wide interpretation. We have set out what, in the government's view, are the specific circumstances where a development application could be dismissed.

Mr McLean: Okay, further clarification, then: “...the land covered by the plan and the services will not be available within a reasonable time.” Can you define for me what a reasonable time would be?

Mr McKinstry: A reasonable time would be defined by the approval authority. The reason that we used those terms was because municipalities do their plans, make their servicing and their land use plans on different time frames. Some use 10 years, some use 20 years. What we're really talking about here is where the municipality

has not planned for services for the proposed development and the development needs services.

Mr McLean: But you say you can stop the project unless "the land covered by the plan and the services will not be available within a reasonable period of time." But your period of time, your interpretation, and the developer's period of time may be two different definitions, unless it's specified.

Mr McKinstry: The developer can make submissions to either the approval authority or the board to argue this, of course. I guess what we have done is we have scoped it. It was wide open before and there was concern from both the Canadian Bar Association and the development industry that we should give at least some indication of what we meant because "premature" could in fact have a very wide meaning. It could mean that the municipality was not prepared to deal with it at the time. We gave some definition of it to satisfy those concerns.

Mr McLean: You know, I remember sitting as reeve of a municipality. Our council agreed that this project was premature. The questions were asked: "Okay, what do I do? How premature is it? Is it premature by a year, by six months, by two years? Is it premature by three years? When can I proceed?"

What you're doing is hamstringing people who want to get on with doing the business of the community, such as the municipality and people who are involved in developing plans, by putting in "within a reasonable time," because there's nothing definite. I like strict rules, I like complications that it is difficult for people when you're in an environmentally sensitive area. But the rules have got to be laid out as to whether you can or whether you cannot. To just say "within a reasonable period of time" is not acceptable to me, nor is it to anybody else who wants to put money into a community.

The Chair: That was a comment, I suppose, Mr McLean. Correct?

Mr McLean: I still want the definition of "a reasonable time" and nobody's giving me that definition. That's what other people want to know too: What is a reasonable time?

Mr Hayes: I would say that if someone had a proposal and there were services that were required and the municipality had no intentions of doing it within three, four or five years, I think it would be unreasonable to approve it. Wouldn't you?

Mr McLean: But when you say, "No, we think it's premature," then that individual is sitting there not knowing what he's going to do with his property or what he's going to do with his land.

Mr Hayes: It's premature because the services are not there to accommodate the development.

Mr Wiseman: He can just come along and put them in.

Mr Hayes: That would change if the developer said, "We'll do it." Certainly.

Mr Wiseman: There is a little bit of a problem here, and that is that if a person owned a parcel of land that was set off from the urban envelope and the council said, "We don't want this land developed because it's too far

away," and, as Mr McLean has said, came along and said, "It's premature," defining "premature" as meaning you don't have any services out there, he could say, "Fine, I'll put them in." Then you've got this pipe and everything going out there and the council is stuck. The council doesn't want it. I guess what I'm sort of looking for here is something that says that if the council decides that it doesn't want it, there should be some reasonable expectation that the council can also have some assurances that it's not going to be end-run as well.

Mr Grandmaître: Even if the developer wants to pay for the services?

Mr Wiseman: Yes, because if the elected council is saying, "This is not an appropriate development for my area; it's going to do a whole lot of things that we don't want to do," then maybe it should be able to say no. I know they don't usually, but with the new guidelines and so on and the emphasis on not sprawling, maybe the council wants to say no.

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Mr Grandmaître: If it's premature and if it's part of the official plan—let's say that it's part of the official plan but the services aren't there yet and this developer goes for an approval. They can't say it's premature because it's part of the official plan, and especially if he wants to pay for those services.

Mr Wiseman: It may be premature in terms of part of the official plan because other parts of the official plan may say that you have to do a certain percentage of infill, that you cannot leapfrog over green spaces and that it has to be adjacent to the already builtup areas. That could be in the official plan too. Even by saying that you would put the services in, the council may very well not want to do it.

The Chair: I'm sorry. Rather than having a dialogue between the two of you, do you have questions of clarification or other comments?

Mr Grandmaître: I would rather have an answer from the staff or the parliamentary assistant than Mr Wiseman, because I'm not satisfied with his answer.

Mr Curling: No one is really.

Mr Grandmaître: What if a developer is willing and it's part of the official plan, it's in the municipal—

Mr Hayes: Okay, put it this way then on that question: If it's in the official plan and if the developer says, "I will put the services in," and if the council agrees with that, you don't have to use this.

Mr Grandmaître: Okay. Good.

Mr McLean: All this resolution is saying is that it's premature because it hasn't got the services. Nobody knows what a reasonable period of time it is in order to put those services in. The question is, what is a reasonable time?

Mr Hayes: I would also say that would be the decision of the approval authority and it may also be the decision of the developer. If someone is saying, "You're not going to get those services for five, six, seven years," then that developer might say: "That's certainly not a reasonable time. I won't do it."

Mr McLean: I think it's a poor amendment. I don't like it. I'll vote against it.

The Chair: I think there's nothing further.

Moving on to the vote then, all in favour of the government amendment? Opposed? That carries.

A PC amendment.

Mr McLean: Oh, it was carried. God, I wrote down "lost." I guess I was right.

The Chair: Mr McLean, the next one is yours.

Mr McLean: That's right. I move that subclause 17(29)(a)(iv) of the Planning Act, as set out in section 10 of the bill, be struck out.

Isn't that just exactly the one that we just dealt with?

Ms Haeck: That's right.

The Chair: It is in order, yes.

Mr McLean: That's right. It already has been changed, hasn't it?

The Chair: Striking out is different than the change that was in the amendment.

Mr McLean: Okay. I'm in favour.

The Chair: Discussion on that motion?

Ms Haeck: Why don't we move right to the vote?

The Chair: All in favour of the amendment? Opposed? That's defeated.

Mr Hayes: I move that clause 17(29)(b) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted:

"(b) the person or public body requesting the referral did not make oral submissions at a public meeting or did not make written submissions to the council before the plan was adopted and, in the opinion of the approval authority, the person or public body does not provide a reasonable explanation for having failed to make a submission; or".

Mr McKinstry: If I can clarify what the amendment is, there was some concern, particularly among rate-payers' groups and community groups, that they could be dismissed very easily for not having participated early in the process. We wanted to make everybody aware that in fact this is not an absolute power, that there will be some opportunity to provide an explanation of why they did not participate before they were dismissed.

Mr Grandmaître: What authority would rule on this if in the opinion of the approval authority—oh, I see. The authority would judge if that person or that public body was—I see. Okay.

Mr McLean: What's the authority that's going to rule on that?

Mr McKinstry: It would be the approval authority or the OMB.

Mr McLean: This is going to rule on somebody who has made an oral presentation which was not deemed to be—or having been referred back through the process?

The Chair: Is that a question, Mr McLean?

Mr McLean: Yes.

Mr McKinstry: Sorry, Mr McLean, I didn't quite hear your question.

Mr McLean: I wouldn't want to have heard it either.

Mr David Johnson: While he's thinking, can I ask a question?

The Chair: Before you do, though, Mr Hayes, do you want to make a comment?

Mr Hayes: May I just make a comment and then maybe it'll make all the members feel a little more comfortable with this amendment.

The Chair: For sure.

Mr Hayes: This amendment is requested by various citizen ratepayer groups and is also supported by the Association of Municipalities of Ontario, regional planning commissioners, the Urban Development Institute, the Canadian Bar Association—Ontario, and the Canadian Environmental Law Association.

Mr Eddy: We support it.

The Chair: Are people ready for the vote?

Mr David Johnson: It's supported by Al McLean and Dave Johnson.

The Chair: Mr Johnson, questions?

Mr David Johnson: Mr McLean's question sort of piqued an interest in me. When you say the approval authority may refuse, who specifically—

Interjection: That would be regional council.

Mr David Johnson: You say regional council. Okay, let's take the regional council. Would that be a motion of the regional council or would the regional council delegate that somehow? Who would actually make that decision in the regional council?

Mr McKinstry: It would have to be a council decision.

Mr David Johnson: So the staff would report to the council?

Mr McKinstry: That's right.

Mr David Johnson: The council then would—

Mr McKinstry: Make the decision.

Mr David Johnson: —make the decision.

Mr McLean: But if you had a staff member who has authority, what would happen then?

Mr David Johnson: So it could not be delegated to the staff?

Mr McKinstry: As far as I know, we have not made provision for delegating that.

Mr David Johnson: Well, it makes sense that you wouldn't, I think, because somebody would have to determine that it does not provide a reasonable explanation. That may be more of a political decision than a staff decision. I just wanted to confirm that. By having it go through a staff process—in the summer, for example, regional councils may not meet for some period of time.

Mr McKinstry: If I can offer another clarification, I was wrong in fact; it could be delegated. If council wishes to delegate, one of our motions is to allow council to delegate authorities to staff. So this would go along with it. Staff is still accountable to council. It's still council's decision, but it has simply delegated it.

Mr David Johnson: But if this was in the middle of

the summer, a staff person could turn down. It might be something in Durham, something awful that's happened, and some citizens would object to it and—

Mr Wiseman: Take your pick.

Mr David Johnson: —a staff member could in the dead of summer turn it down. The council members, who would be on vacation or whatever, wouldn't hear about it for months.

Mr McKinstry: If I may say, I think most developers would very quickly contact their elected representatives to let them be aware of this.

Mr David Johnson: This could be a person, this could be somebody objecting to it, objecting to the magnitude of the development, couldn't it?

Mr McKinstry: That's right. But I imagine they would still contact their representative.

Mr David Johnson: Yes, but the representative—

Interjection: May be on holidays.

Mr David Johnson: —yes, they may be on holidays or in a summer period. You know, this is the one thing: The wheels fall off the planning process in the summer because a lot of councils don't meet in the summer.

1630

Mr Hayes: But the councils do not have to give that authority to staff; we're enabling them to do it. Right? If they choose not to, then your concern or your fear will never—

The Chair: If they do, it's delegated, and they're accountable to the politicians. I mean, that's the point.

Mr Hayes: That's right.

Mr Wiseman: I was thinking about my council and what it does, and I know exactly what it would do with this section. They'd delegate this to somebody who's in the planning department, probably fourth or fifth grade level, and an opposition person who says that they do not like the official plan amendment or an amendment on a parcel of land but maybe was away when the notice was sent out, given that just recently notices were sent out for official plan amendment, if the person happened to have been away on vacation or something over the summer, they would not have gotten it, and they may not be able to make a presentation, and all of a sudden this great big thing's going in behind them, and because they haven't been around they have no rights left, and they get told by a staff person that they have no rights.

Mr McKinstry: I guess a couple of comments; one is that council can put conditions on delegation—

Mr Wiseman: Oh, no, let's understand something here, that what this does is give the council that isn't interested in putting conditions on, that is interested in slipping stuff through, like putting 7,000 acres into an official plan that they did not consult on—this is tailor-made to just slide stuff through. Oh, they'd love this.

Mr McLean: Could I get a clarification?

The Chair: I'm sorry, we're still answering a question. Mr McKinstry, go ahead. I think he understood the question. Go ahead.

Mr McKinstry: The other comment, just so every-

body's clear what we're doing here, is that this provision is in Bill 163. We're simply clarifying here that in the opinion of the approval authority the person or public body does not provide a reasonable explanation for having failed to make a submission. Everything previous to that is already in Bill 163. So we're simply saying people should be given the chance to provide some reasonable explanation of why they didn't participate, and we have built in fairly extensive notice provisions to try and make sure that people are able to participate.

Mr Wiseman: Is it reasonable that they were away on vacation and that they were not able to be there and they didn't get the notice?

Mr McKinstry: I would think if they didn't get the notice, it would be reasonable.

Mr McLean: It would be reasonable to me.

Mr Wiseman: It may be reasonable to you, but come to Durham.

The Chair: Come on, Jim.

Mr Wiseman: I like Ajax, though.

Mr McLean: I'd like to get a clarification, Mr Chair. I'm pretty curious who drafted these 100-plus amendments that the government has. Was it the ministry staff or was it legal counsel that drafted them?

The Chair: Mr Hayes, do you want to—

Ms Mifsud: It depends what you mean by "drafting." There's obviously policy input, legal input and then there's actual putting pen to—it's kind of a joint effort. The wording itself I think I will have to be responsible for.

Mr McLean: I thought it was coming from the ministry staff.

Ms Mifsud: The ministry certainly has major input in the policy. I don't know how to divide it. It's kind of a group process.

Mr McLean: How long have they been working on these amendments?

Interjection: For years; before John Sewell.

Ms Mifsud: When did the committee stop? I don't know. You see, they've developed policy, and they don't always necessarily tell me till the last minute or last week or last month. So I really can't answer, as to the whole process, how long they've been working on it.

The Chair: All right?

Mr Wiseman: I have major questions on both sections.

Mr Grandmâitre: What are you concerned about?

The Chair: Given that there is no other motion in front of us—

Mr Wiseman: What are my concerns? My concern is that the public may be losing their ability to participate in the process. That's my concern.

Mr David Johnson: UDI supports it.

Mr Wiseman: With UDI supporting it, that really raises my concern.

Mr White: Mr Chair, I move that we stand down this motion so that we can deal with it at a later time.

The Chair: Is there unanimous consent? There appears to be. Okay.

Mr Curling: I move that subsection 17(29) of the Planning Act, as set out in section 10 of the bill, be amended by adding the following clause:

“(d) the person or public body refused to participate in good faith in alternative dispute resolution techniques under section 65.”

People are concerned that things are now maybe frivolous or people just want to be troublesome and in that respect could lose a lot of time. We hope that if people are not doing this in good faith and refuse to come under the alternative dispute resolution techniques, that we could proceed with the process without holding up any more time on this. I know my colleagues have some other comments to make in this respect.

The Chair: Mr Eddy, do you want to comment now?

Mr Eddy: Just briefly. It's an additional criterion that's been requested by the municipalities through their municipal association. I think the wording “in good faith” of course is used in preceding subsections of this section. That does happen on occasion, where a person may go through the motions of participating in the alternative dispute resolution techniques but is not really participating. So I agree with the request that this be added.

Mr Wiseman: I'd like to hear from Mr Hayes, and then I'd make comments.

Mr Hayes: One of the problems we have here is that we do have an alternative dispute resolution system, and with the process there, we just don't believe that we can really legislate people when they're going to do something voluntarily, put it that way. ADR is a participatory process which we support strongly as part of the planning process, but we do not believe that a requirement for ADR can be legislated.

Mr Wiseman: I was just going to say on this that I have a little bit of difficulty with it as well in terms of definition of good faith. Then the second thought I had was, well, maybe it wouldn't be so bad if they refuse to participate, but then you would be negating all of their other legal avenues for resolving something.

The problem that I really have with this is, what happens if it's the proponent who's not willing to do something in good faith? There was an incident just a little while ago in my riding where the person who was against what was happening went to the dispute resolution techniques, went through that whole process, agreed with what the mediator had to say about how it should be resolved, but the proponent and the town just said, “Forget it.”

Mr Eddy: And walked away.

Mr Wiseman: And walked away. So it went to the Ontario Municipal Board. So I don't think I like this section. I don't even think I like the whole section, but this one I wouldn't support.

Mr David Johnson: When you look at the Association of Municipalities of Ontario brief, they talk about simply people refusing to participate in the process. Somehow in the motion that they then developed they inserted the words “in good faith.” Frankly, I really don't

know what “in good faith” means either, and it gives me a little bit of pause because what somebody means by “in good faith” may be entirely different than what somebody else means. But if the words “in good faith” were deleted, would that change the view of the parliamentary assistant at all? That would then simply say that the person or public body refused to participate in the alternative dispute resolution.

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In other words, the province has set up this mechanism, and I think it's generally conceded that it's a good mechanism, and it hopefully will resolve problems. I think the concern is being expressed here, though, for somebody who may have a frivolous objection—although I think staff would say there are avenues to reject frivolous objections anyway—somebody who is really just trying to throw a monkey wrench into the works and they won't participate in the dispute mechanism, they simply want to drag it out as long as they can, if so, if the directive then was that if you don't participate—deleting the words “in good faith,” because who really knows what that means?—

Mr Wiseman: It really changes it, though. If you delete “in good faith,” it means if you don't participate, you're cut off. It's pretty absolute.

Mr David Johnson: The easiest thing to do is to participate. You can just show up and participate in bad faith. You can be in good faith or bad faith, I suppose.

Interjection: Who is going to determine that?

Mr David Johnson: Who is going to determine? But that's a much easier criterion to meet than by inserting the words “in good faith.”

The Chair: Let's get Mr Hayes to comment on that.

Mr Hayes: I can see where you're coming from, but at the same time, what you would be doing here, even if you did take out the words “in good faith,” you'd still be making it compulsory for the person to go through a process. So you're making it compulsory, and that's not the idea of the whole thing; it's to make it voluntary and try to work together and communicate and solve problems.

Mr David Johnson: The person has initiated the process, though. This is what I find a little bit of a puzzle, because this person says: “I want to be involved in this process. I want this to be appealed.” So they're saying that they want to be involved in the process.

Mr Hayes: They are being allowed to be involved in the process, but they are not being forced to be involved in that process; this would force them.

Mr David Johnson: Okay, I guess. So we've heard your opinion. It's just my opinion that there is some merit in what the Association of Municipalities of Ontario is putting forward. If you're forcing people, pulling them out of their houses and forcing them to be involved in a process that they didn't want to be involved in, then I would agree with you 100%. But what we're talking about here are people who are appealing this, are appealing some decision to the Ontario Municipal Board. Most appeals, I assume, are on excellent grounds, or they may be just dragging out the procedure. But there is

another part of this procedure which presumably, if they were in good faith, they would be interested in, and that other part is the dispute resolution mechanism.

I would think that since they have volunteered themselves to be part of this process, to appeal to the OMB, this additional step could easily be inserted where part of that process was the dispute resolution, and if they didn't go through that then they weren't serious, that's a clear indication that they're simply dragging it out and they're not serious and therefore there shouldn't be an OMB hearing. That's my feeling.

The Chair: I think Mr Curling had answered the previous question. Did you ask another question?

Mr David Johnson: Well, I made a statement. You can choose to respond to it or not.

The Chair: I think that there's a difference of opinion there.

Mr Hayes: I have already responded.

Mr Curling: We know that there are groups and individuals who have good intentions some times when they see development happening in their neighbourhood, and there are the others who have the NIMBY tag on them; they don't want it, no matter what it is, in their backyard, and they will participate just for some time, for the profile or just to be irritating the system.

While the parliamentary assistant stated that there are voluntary ways we can control this system, if you put someone through the dispute resolution process that this will be almost ordering them to do something, most of this legislation is ordering you to be conforming to certain procedures. I think this was placed in here to say that if people have good intentions and want to participate in good faith, meaning that they have an issue they'd like to raise, they'd like to be resolved; somehow it comes to a situation and a personality, and they have the alternative dispute resolution technique that they will conform to. That means they are in good faith if they more or less have confidence in the system.

But in the meantime now to say: "No, I don't want to participate in here, I just want to raise hell. I just want to carry this process through as long as I can until I frustrate the process." While they're frustrating the process, it's costing money. It is running counter to the streamlining process that you want to put in place. I feel that what we are putting here, the amendment, would somehow deal with that kind of a difficult process.

I would say that government should look very hard at this amendment because then it would more or less eliminate those frivolous individuals or public bodies, so to speak, who just want—"No. I don't want it in my backyard; for no reason, because I don't want it." I have seen situations where I used to live before that they wanted to put the bus along the road and those with cars say: "No way. I don't want any bus." Why? "Because I have cars." On the other hand, there are people who wanted the transportation there. They would drag it out for a long time until a decision had to be made.

I think that if they have a genuine concern and this can be resolved in a manner, I think that is a very efficient way to resolve these matters. I would say if you take a

very serious look at it and encourage the government members to support this amendment, or the parliamentary assistant could demonstrate which is a powerful decision to just say, "We will take a very serious look at this and come back because I think it's worthwhile to have this amendment in the legislation."

The Chair: I think we're ready to vote.

Mr Curling: I thought he was going to comment. Were you going to—

Mr Hayes: You were making a comment. I don't recall you asking me any questions.

Mr Curling: Yes, would you consider—

Mr Hayes: Yes. We have considered it and I responded to you after I considered it.

The Chair: I think he's already had—

Interjections.

The Chair: I think we're ready for the vote on this matter.

All in favour of the Liberal amendment? Opposed? That's defeated.

A PC amendment, subsection 17(29).

Interjections.

The Chair: Mr McLean, identical?

Mr McLean: These are good amendments; however, I will withdraw it. Is it necessary for the Chairman to say whose amendment it is or whose it isn't?

The Chair: Yes.

Mr McLean: Why?

The Chair: In order to identify—they're all listed here, the amendments that everyone has made. We need to deal with them. So you either have to withdraw it or not move it or—we have to do something with those motions because they're there.

Mr McLean: I wonder as Chairman of the committee when the members would be able to receive the Hansards that we have been talking about for weeks and weeks now. I'd like to review some of our Hansards that we've had for the first two weeks of these hearings. Is there any chance that we might be able to get them before we adjourn?

The Chair: We could try, yes, within a reasonable time.

Mr McLean: Could you determine what that is?

The Chair: Yes, we can. As soon as we can.

Mr McLean: We'll have them by next Monday, will we?

The Chair: I think we can, yes.

Moving on, government amendment.

Mr Hayes: I move that subsection 17(30) of the Planning Act, as set out in section 10 of the bill, be struck out.

This amendment deletes the exemption provision for public bodies from the requirement for bringing concerns to council before the official plan or amendment is adopted. A public body should be subject to the same rule as persons and I think we all agree with that.

The Chair: There you go.

Mr Hayes: Have I convinced you or do you want me to go further?

Mr McLean: I'd like you to define what your definition of a public body would be and consist of?

The Chair: Ms Ross.

Mr Hayes: Okay, have you got the list of that?

Ms Ross: Yes, there is a definition of "public body" at the beginning of the act, if I can find it. "Public body means a municipality, local board, ministry department, board, commission, agency, or official of a provincial or federal government or a first nation."

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The Chair: Is that clear, Mr McLean?

Mr McLean: Pretty close.

The Chair: Any other matter?

Mr David Johnson: If I may—

The Chair: Mr Johnson—hold on, he would like to read into the record some other comments.

Mr Hayes: If there are concerns with the official plan or amendment, they should bring their concerns to council before the plan is adopted. I think I should also make known that various citizens, ratepayer groups—and it's also supported by the Association of Municipalities of Ontario, regional planning commissioners, Urban Development Institute, Canadian Bar Association—Ontario and Canadian Environmental Law Association. I thought you would like to have that information.

The Chair: Anything further? Mr McLean.

Mr McLean: The only thing I have to say, Mr Chair, is the fact that the government motion, the Liberal motion and the PC motion for once through this process are all identical and I will be supporting them all.

Mr Hayes: We're starting to understand one another.

The Chair: All in favour of this government amendment? I should point out, the other amendments by the other two parties are nearly identical. That carries.

Mr Hayes: I move that subclause 17(38)(a)(iv) of the Planning Act, as set out in section 10 of the bill, be struck out and the following substituted:

"(iv) the plan or part of the plan that is the subject of the proposed decision or the appeal is premature because the necessary public water, sewage or road services are not available to service the land covered by the plan and the services will not be available within a reasonable time;"

Mr McKinstry: If I could clarify that this is for the powers of the board to dismiss. The other one was powers for the approval authority to dismiss. It's identical.

Mr David Johnson: I wonder if the staff or the parliamentary assistant could tell me how the municipal board will decide that the necessary public water, sewage or road services are not—if they're not available, that's pretty easy. Is it just not available or not available within a reasonable time—but are not available to the extent required, I guess? There may be sewage capacity there, for example, but it may not be adequate to handle the whole proposal.

Mr McKinstry: If I can clarify, this motion really does not get at the issue of sewage capacity, it gets at the issue of whether or not there's services at all. What the board would do is look at the municipality's official plan, look at their servicing plan, and they could determine from those whether or not this was an area that the municipality was planning to service within the lifespan of their plan.

Mr David Johnson: Could you tell me, does this intend to deal with appeals that essentially go straight to the Ontario Municipal Board? Because, presumably, if this came through the local council—and what's the other thing we were talking about?—the approval authority—I have to learn these words—neither of them would approve an application where there is no public water or no sewage capacity.

Mr McKinstry: It's primarily intended to deal with areas where there is a direct appeal. However, the board would still have this power where there is a referral request and it goes through the municipality.

Mr David Johnson: So where there is a direct appeal, and there is sewage capacity—or there is water capacity, but there isn't sufficient capacity, let's say, to deal with an application of subdivision, for example. There's a sewage pipe but it wouldn't be big enough to handle the whole flow; on this basis, the Ontario Municipal Board would not be able to rule it premature, is that what you're saying?

Mr McKinstry: It could rule it premature if the services were not available, yes. It could.

Mr David Johnson: I'm saying the services are—it depends on how you define "not available." There's a sewer pipe there, but it's overloaded, let's say, even with existing capacity in the area.

Mr McKinstry: If there's no capacity, it is possible that the board could rule it premature. However, it is a discretionary power.

Mr David Johnson: It doesn't say that here, though. It depends again, I guess, how you define—to say that sewage is not available. You would define a sewage pipe that's deemed to be full to capacity as being not available, would you?

Mr McKinstry: That could be one interpretation, I think, yes.

Mr David Johnson: It's not very clear, is it?

Mr Hayes: There's no capacity available.

Mr David Johnson: It doesn't say that though, it uses the words "not available."

Mr Hayes: If you don't have the capacity to take more, it's not available, right?

Mr David Johnson: If that's the interpretation, it seems like a bit of a leap, though. You're telling me that would be the direction.

Mr Hayes: If the pipe is full to capacity then of course the service is not available.

Mr David Johnson: Let me give you another example then, and see how you interpret this: Suppose the approval authorities have approved a number of subdivisions but, because of economic conditions, they've

not gone ahead and then along comes another subdivision, this one, and it appeals directly to the Ontario Municipal Board. If somebody sat back and looked at all this, they would say, "If all of these go ahead that have been approved already by the approval authority, then there will not be capacity," but they haven't all gone ahead.

What does the Ontario Municipal Board do then? Does it judge the availability of capacity on what's available at that particular instance or does it look at what has been approved back through the years and months and say, "Once all this that's approved goes ahead, there's no more capacity, so therefore this particular application is premature"?

Mr McKinstry: The municipalities allocate capacities to developments that are approved and, in the terms of subdivision approval, they have to have a mind to servicing and capacity. So the board, in its review, would also have to look at that and they could potentially say, at the outset, if there is no capacity, it's premature, or they might decide to not say it's premature because they think it's borderline and they might decide to hear it.

I should also say there is another government motion later on in the package that deals with the issue of giving the municipalities the ability to reallocate sewage capacity because AMO told us very clearly that we did need some way of saying if developer A wasn't going ahead, maybe developer B should have that capacity. That, to some degree, ameliorates that concern.

Mr David Johnson: I agree with that at the municipal level that unless your motion incorporates the OMB in there as well, then the OMB could be working at loggerheads or in the opposite direction with the municipality.

Mr McKinstry: No, it does not.

Mr David Johnson: I'm a tiny bit reassured when you say the Ontario Municipal Board could do this or could do that or could do anything, but the words here don't reflect that. That's a very broad interpretation that you're taking of these words.

Mr McKinstry: If you look at the whole section, it

says, "may dismiss...if, (a) it is of the opinion that." So it is discretionary. There's no requirement for them to dismiss it.

Mr David Johnson: I guess specifically I'm saying it looks to me as if this clause refers specifically to what is available in the ground at the time the Ontario Municipal Board is making the decision. It doesn't look to me as if the phraseology here guides the board to look at all other approvals that have been made, but are just hanging in thin air as it were.

Mr McKinstry: Under section 51 of the act, in approving subdivisions, approval authorities have to look at availability of services. That's a very clear directive in the act.

Mr David Johnson: Those are the approval authorities; we're talking about the OMB here.

Mr McKinstry: It is one of the approval authorities. Anybody who isn't making an approval on an application of a subdivision would have to look at these subsections.

Mr David Johnson: But this objection has gone directly to the Ontario Municipal Board, right around the approval authority. Is the Ontario Municipal Board also required to look at what has been approved?

Mr McKinstry: The Ontario Municipal Board would be required to look at the availability of services, and services are not available if they're allocated to another draft plan of subdivision.

Mr David Johnson: I'm pleased to hear you say that, but it doesn't really say that here. That's an interpretation.

Mr McKinstry: This is simply a dismissal power that says they can dismiss, if it's premature, on these reasons.

The Chair: Anything further? Seeing none, let's move to a vote here.

All in favour of the government amendment? Opposed? That carries.

Having dealt with that, we'll adjourn until 10 o'clock tomorrow morning.

The committee adjourned at 1700.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli
Hansen, Ron (Lincoln ND) for Mr Bisson
Hayes, Pat (Essex-Kent ND) for Mr Malkowski
Johnson, David (Don Mills PC) for Mr Harnick
McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson
White, Drummond (Durham Centre ND) for Mr Bisson
Wiseman, Jim (Durham West/-Ouest ND) for Ms Harrington

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister
McKinstry, Philip, acting director, municipal planning policy branch
Perron, Linda, solicitor, corporate resources management
Kennedy, Ron, manager, plans administration branch (north and east)
Boeckner, Pat, manager, plans administration branch
Ross, Elaine, solicitor, corporate resources management

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 29 September 1994

Journal des débats (Hansard)

Jeudi 29 septembre 1994

**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

**Planning and Municipal Statute Law
Amendment Act, 1994**

**Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités**

Chair: Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Thursday 29 September 1994

Jeudi 29 septembre 1994

*The committee met at 1016 in committee room 2.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): I call the meeting to order.

Mr Pat Hayes (Essex-Kent): Mr Chair, if I may, we have a government motion dealing with section 61, a motion dealing with the septic tank issue. I believe it's a concern for all three parties and all members, and it has support, at least in principle, from AMO because it is a permissive amendment.

Also, we have people here from the Ministry of Environment and Energy. They're here to assist and explain the bill, and if the members choose, I would be asking them to walk this bill through so everyone understands it as thoroughly as possible. I would ask for unanimous consent that we move up section 61, the government motion to amend, to deal with this very important issue.

The Chair: Mr Hayes is moving a motion, first, to stand the others down and bring this one forward, and second, to deal with a matter that isn't properly within the scope of this bill. So we have two things to do. If there's unanimous consent to bring it forward, we can hear the arguments, both from the staff and yourselves, as to whether you want to deal with it and have it included in this bill. Okay?

Mr Alvin Curling (Scarborough North): Just a matter of explanation, Mr Chair: If there is unanimous consent to bring it forward—I think the motion here is to decide whether we will bring it forward.

The Chair: Then let's deal with that first. Is there unanimous consent to stand the other matters down and deal with the motion that Mr Hayes would like to introduce?

Mr Bernard Grandmaître (Ottawa East): Mr Chair, can I try and help you and my colleagues?

The Chair: Absolutely.

Mr Grandmaître: Why can't we agree now to hear from staff, and then we'll take a second vote, if we need a second vote, to deal with section 61? Instead of asking for the vote now—

The Chair: You see, you've got to introduce the motion before you can even talk about it. In essence, we have to not only stand the other matters down to deal with this, but in doing so, we then have to deal with the motion.

Mr Jim Wiseman (Durham West): We need two unanimous consents.

The Chair: They are concurrent, in my view.

Mr Grandmaître: I know this, but could we all agree, Mr Chair, that we should hear from staff first, and then we'll deal with section 61?

Ms Christel Haeck (St Catharines-Brock): In order to debate it, you have to move it.

Mr Grandmaître: We're not going to debate it. We're going to listen to staff, and then we'll need unanimous consent.

The Chair: The clerk is advising me on this matter and suggesting that we need unanimous consent to bring this matter ahead of all the other matters. Is there unanimous consent to do so?

Mr Grandmaître: Unanimous consent to listen to staff.

Mr Wiseman: That's the same thing.

Mr David Johnson (Don Mills): Can I just direct a question through to the clerk, who I guess is the arbitrator of proceedings here, in a sense?

The Chair: I'm the arbiter. She's the adviser to the Chair.

Mr David Johnson: We trust the adviser, though.

The Chair: Of course.

Mr David Johnson: Is there such a procedure as permitting staff simply to speak and explain rationale?

The Chair: Ms Bryce tells me that if we want to bring the matter forward, then we would be speaking to that particular issue—of why we would be bringing this forward—and that would be the debate on that matter, as opposed to the contents of the amendment.

Mr David Johnson: Can I just ask why we need to deal with this now rather than in the regular order it would come up, because there are staff members here,

and how many staff members? I'm just a little puzzled. Obviously, it's an important issue that we want to deal with, but I'm just a little puzzled why we wouldn't deal with it in its natural order.

Mr Hayes: As Mr Johnson has said, it is a very important issue, and it's an issue that people are asking us to pursue. It's a fairly lengthy amendment and we feel it's going to take some time, maybe more than some other parts of this legislation, and to get this, hopefully, implemented, there's still a fair amount of work to do by staff. We feel it's that important issue we all have concerns with and want to pursue, and that's why I'm here this morning asking for consent to deal with this.

Mr Chair, I know you have procedures to follow, but as far as I'm concerned, if you were to ask for unanimous consent so all you would be doing is allowing staff to come forward to explain it, then after that you could make whatever decision you choose to make.

Mr David Johnson: Mr Parliamentary Assistant, once it's been explained, would it then be your recommendation that we revert to where we are at this time within the bill without coming to a final conclusion on the septic system?

Mr Hayes: No. We're asking to deal with this. I'll make another suggestion to both opposition parties. Even though I have the staff here to explain it, if you need a little more time, maybe we could deal with it right after lunch, for example. I'm willing to do that, if you need more time to talk to people in your office or whatever.

Mr David Johnson: How many staff are here?

Mr Hayes: There are four, I guess, from the Ministry of Environment and Energy. They may all be speaking, I guess whoever can answer the questions, depending on the questions.

Mr David Johnson: You're asking us to bring this forward and deal with it specially. Are there any other aspects of this bill, during the course of the debate on the bill, that you'll be asking us to bring forward and deal with?

Mr Hayes: No.

Mr Allan K. McLean (Simcoe East): I have a further question for clarification. If we deal with this now, which may take most of the morning, we are going to have approximately 100 amendments left by the end of the day, which is what we have been allotted as sitting time. What do you anticipate will happen with those amendments that are not dealt with today? Will this committee meet after the Legislature resumes and continue to deal with them one by one?

Mr Curling: Mr Chairman, this is a very technical thing, and I want the attention of the Chairman here.

The Chair: You've got my fullest attention, Mr Curling, as always.

Mr Curling: Well, if that is your fullest attention—I'm telling you it's a technical matter. I have no problem with us debating whether we should bring it forward or not, for that debate to happen. The motion is on the floor for whether we should bring this forward or not, and I have no problem with that, to bring it forward for us to debate whether it should be debated as a priority, the

second stage you're talking about at 61.

The Chair: Let me propose this: If people are in agreement to move this matter forward, that would be the first step. Obviously, some of you don't want to commit yourself to the second step, of the introduction of the motion. What I as the Chair will allow is that rather than reading the amendment into the record, because once you do that it becomes the property of the committee, rather than doing that we will allow the staff to speak to the issue.

Mr Grandmaître: But you just told us, Mr Chair, that you had to read the motion properly to make it legal.

The Chair: That's what I'm saying, that what I will do is allow us not to have to read that into the record but rather have staff speak to the amendment without having to read it into the record.

Mr Grandmaître: And we can do this?

Mr Wiseman: You can do anything with unanimous consent.

Mr Grandmaître: No, you can't.

The Chair: Ms Bryce has given some wise counsel. We can read the motion into the record and then people can debate whether they feel it should be part of this bill. So that's all we would be voting on: We would be voting, once we've heard explanations, on whether or not this amendment can be properly part of this bill, by unanimous consent. If there's no unanimous consent, this motion would not, after debate, have to be dealt with.

Mr Curling: Mr Chairman, let me deal with that point. You are bringing in amendments by the day, by the minute, by the second. Here is another one that just came in. Just put it in as a replacement and say, "Here's another amendment," and let's proceed. I don't know why we're debating to have this special one. Yesterday, we had no debate about those that were sliding in every second. We have one that is coming in now and we want a debate about whether it should come in. It's normal. Put the amendments on the table. When we get to 61, we deal with it. I don't know why we need unanimous consent to find if it should come in here. Anyone can come in here with an amendment.

The Chair: Mr Curling, let me explain. The problem with the motion is that it's not within the scope of this bill, it's outside the scope of the bill, and that is why we need unanimous consent to make it part of this bill. If you're saying at this moment, without hearing the arguments, that you want it that way, that's fine; that would make it easier. But let's proceed, based on that feeling, and move on. Can we do that?

Mr Grandmaître: Mr Chair, you're saying that this amendment in no way is part of this bill, right?

The Chair: That's what I said, yes.

Mr Grandmaître: If you look at Liberal motion number 173, we have an amendment that says:

"I move that section 52 of the bill be amended by adding the following section to the Municipal Act:

"223.2(1) Despite the Environmental Protection Act, the council of a local municipality may pass"—

The Chair: I understand that. We would rule that out

of order, as we would this; we'd have to deal with that in the same way we're dealing with this.

Mr Grandmaître: You would have to rule this out of order?

Mr Curling: So you're bringing it forward to rule it out of order.

1030

The Chair: Do you really want to debate whether this is within the scope or not, or do you want to hear the arguments and move on? We can do both, but I would advise us to simply move on. If you feel this is within the scope, that's fine: We'll hear the arguments and then introduce it and have a vote one way or the other. All right?

Mr Wiseman: I guess we're really talking about the urgency of the debate here. We have signalled to the Association of Municipalities of Ontario that we are prepared to move this amendment. We have given the amendment to them, they've seen it, they have commented in a news release that they're pleased to see it, but there's a problem—really, two.

They would like to know, sooner rather than later, what the committee's intentions are on this issue so they can start planning their own work. But the problem here is that we have to open up the Environmental Protection Act to do this. In order to open up the Environmental Protection Act in this committee, we have to have unanimous consent. Because we are acquiescing to the request of AMO to be very clear about the intentions of this committee, that's why we're asking to do it this morning.

Basically, what we're doing is trying to signal that we are prepared to move ahead with this amendment; this is the amendment we're prepared to move ahead with. To do this, it takes two stages: First, we need to have unanimous consent of this committee to move forward, to place this section on the agenda this morning; second, we will need unanimous consent of the committee to pass this amendment. Mr Grandmaître, your amendment would also need unanimous consent to be introduced because it's an amendment to the Environmental Protection Act, and if it doesn't get unanimous consent the Chair is forced to rule it out of order.

What we're asking for now is unanimous agreement from the committee to look at this, unanimous consent to bring it on to the table now, to bring the staff forward and hear what they have to say so that opposition and government members can discuss it. And then the next step would be to ask for unanimous consent to pass it.

Mr Grandmaître: Mr Chair, you would need consent of this committee to deal with section 52, the Liberal amendment, when we reached section 52. Now we're jumping from 10 to 52, and this is why we would need consent of this committee.

Mr Wiseman: I understand that, Mr Grandmaître. What we're trying to do is facilitate an operation in another level of government so that they can get on with it.

The Chair: I'm not sure—I'm trying to understand the resistance at this moment. First of all, we're trying to

accomplish two things, and Mr Wiseman was getting to repeating that. First, we want to move this matter up—that's what the parliamentary assistant has suggested—and that requires unanimous consent. That's one thing. The second problem we have identified is that this is not within the scope, because it changes what is there substantially. To deal with that, we need you to hear arguments about why this should be part of this bill. That requires unanimous consent. Once we've got that, then we move to a vote on that particular amendment.

So we need those two things. People want to deal with it. Let's have unanimous consent to move this matter up and then let's hear the arguments. If there's unanimous consent that this is something that is within the scope, then we'll move to the vote. Is that okay?

Mr Grandmaître: If you say, Mr Chair, that there are major changes, is it in order?

The Chair: But I'm asking you, let us hear the arguments, and if you feel after hearing the arguments that it's within the scope, once we've done that and we get unanimous consent, we can move on to the other matter, that is, the vote on this.

Mr Curling: Can I ask if this is the same thing you said had to go back to cabinet? When we asked previously, you said, "It has to go to cabinet to include this." Lo and behold, cabinet met, and such a surprising thing, that overnight we got it now to—is this the same one?

Mr Hayes: Yes, this is the same one, but it wasn't done overnight. It took a considerable length of time to make a decision on this.

Mr Grandmaître: Well, we received it at 4:40.

Mr Hayes: You received it shortly after I received it.

Mr David Johnson: Mr Chairman, when it comes down to it, as long as we're not going to make a habit of bringing things forward and going back and forth—

Mr Hayes: No, we're not.

Mr David Johnson: We have to deal with it either now or later. Personally, from that point of view, I really don't care and I'll grant you my consent to do that.

But I still am not convinced about why we're really doing this. Mr Wiseman has said we have to open up the Environmental Protection Act. I think he's been trying to help us, but in actual fact, section 61 already does amend the Environmental Protection Act. It says the act is amended by inserting—it's a small amendment, but there it is; it already happens. I'm not really too sure what the rush is to deal with this today, but given that we have to deal with it at some point, I guess today is as good a time as any.

And I think I do buy your theory that this is a substantial change and, in that event, apparently the procedure is that unanimous consent is required. I know that AMO is interested in this, and whether we deal with it now or whether we deal with it in its natural course, I'd be prepared to give my consent that we do deal with it because I know this is of concern to municipalities.

The Chair: Is there unanimous consent, therefore, to move this matter up?

Interjections: Yes.

The Chair: Okay. Now what we are going to do is that once we read it into the record, we can hear arguments from the different members about why this should be part of the bill, all right? That will require unanimous consent. Mr Hayes, go ahead.

Mr Hayes: I move that section 61 of the bill be struck out and the following substituted:

"61(1) The Environmental Protection Act is amended by adding the following sections:

"Bylaws re: sewage system programs

"81.1(1) A municipality in a class prescribed by regulation may, by bylaw, establish a sewage system program prescribed by the regulations to govern sewage systems within the municipality's jurisdiction.

"Fees

"(2) The municipality may by bylaw provide for fees with respect to any matter related to the sewage system program.

"Same

"(3) A bylaw under subsection (2) may fix fees or establish a method of calculating fees and may exempt any person or class of persons from the fees.

"Lien

"(4) The municipality that imposes a fee under this section shall have a lien on the land for the amount of the fee upon registration in the proper land registry office of a notice of lien.

"Amount added to collector's roll

"(5) In default of payment of the fee, the clerk of the local municipality in which the land is situate shall, upon being notified in writing by the municipality that imposed the fee, add the amount of the fee to the collector's roll and it shall be collected in the same manner as municipal taxes.

"Collection

"(6) A local municipality that collects a fee as municipal taxes shall send that amount to the municipality that imposed the fee.

"Land in territory without municipal organization

"(7) A municipality that imposes a fee under this section in respect of land in territory without municipal organization shall have a lien on the land for the amount of the fee and the amount shall be deemed to be a tax under the Provincial Land Tax Act.

"Inspectors deemed to be provincial officers

"(8) Persons authorized by the municipality to carry out inspections respecting sewage systems under the sewage system program have all the privileges, powers and duties of provincial officers under part XV.

"Same

"(9) For the purposes of subsection (8), 'regulations' in part XV includes bylaws passed under this section or section 81.2.

"Bylaws prohibiting contraventions

"81.2(1) A municipality may pass a bylaw providing that"—excuse me, Mr Chair. I withdraw everything I've said.

Interjections.

The Chair: Strike it from the record. Mr Hayes, go ahead.

1040

Mr David Wininger (London South): Mr Chair, before he reads it, maybe we could clarify for certain which document he's reading from.

The Chair: It's numbered 188 and it's got a little "C" on the left-hand side. It's the one that was filed to us this morning, and that's what we distributed.

Mr Hayes: It says "replacement." I apologize to the committee for not looking closer.

Mr Curling: Accepted.

Mr Hayes: Thank you.

I move that section 61 of the bill be struck out and the following substituted:

"61(1) The Environmental Protection Act is amended by adding the following sections:

"Bylaws re: sewage system programs

"81.1(1) A municipality in a class prescribed by regulation may, by bylaw, establish a sewage system program prescribed by the regulations to govern sewage systems within the municipality's jurisdiction.

"Fees

"(2) The municipality may by bylaw provide for fees with respect to any matter related to the sewage system program.

"Same

"(3) A bylaw under subsection (2) may fix fees or establish a method of calculating fees and may exempt any person or class of persons from the fees.

"Lien

"(4) The municipality that imposes a fee under this section in relation to a sewage system on land shall have a lien on the land for the amount of the fee upon registration in the proper land registry office of a notice of lien.

"Amount added to collector's roll

"(5) In default of payment of the fee, the clerk of the local municipality in which the land is situate shall, upon being notified in writing by the municipality that imposed the fee, add the amount of the fee to the collector's roll and it shall be collected in the same manner as municipal taxes.

"Collection

"(6) A local municipality that collects a fee as municipal taxes shall send that amount to the municipality that imposed the fee.

"Land in territory without municipal organization

"(7) A municipality that imposes a fee under this section in respect of land in territory without municipal organization shall have a lien on the land for the amount of the fee and the amount shall be deemed to be a tax under the Provincial Land Tax Act.

"Inspectors deemed to be provincial officers

"(8) Persons authorized by the municipality to carry out inspections respecting sewage systems under the sewage system program have all the powers and duties of

provincial officers under part XV.

"Same

"(9) For the purposes of subsection (8), 'regulations' in part XV includes bylaws passed under this section or section 81.2.

"Bylaws prohibiting contraventions

"81.2(1) A municipality may pass a bylaw providing that any person who contravenes a bylaw passed by the municipality under section 81.1 is guilty of an offence.

"Penalties

"(2) The penalties set out in section 322 of the Municipal Act apply to bylaws passed under this section.

"(2) The act is amended by adding the following section:

"Protection from personal liability

"82.1(1) No action or other proceeding for damages or otherwise shall be instituted against an officer or employee of a municipality for an act done in good faith in the execution or intended execution of any duty or authority under this part or for any alleged neglect or default in the execution in good faith of any such duty or authority.

"Judicial review etc

"(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this act.

"Municipality not relieved of liability

"(3) Subsection (1) does not relieve a municipality from liability in respect of a tort committed by a person referred to in subsection (1) to which the municipality would otherwise be subject and a municipality is liable in respect of such tort in a like manner as if subsection (1) had not been passed.

"(3) Subclause 156(1)(d)(i) of the act is amended by striking out 'agreement or' in the sixth line and substituting 'agreement, sewage system program or'.

"(4) Clause 156(1)(e) of the act is amended by striking out 'agreement or' in the seventh line and substituting 'agreement, sewage system program or'.

"(5) Clause 176(6)(b) of the act is amended by striking out 'cleaning' and substituting 'inspection, cleaning'.

"(6) Clause 176(6)(j) of the act is repealed and the following substituted:

"(j) respecting the records to be kept and the reports to be made by any class of persons;

"(7) Subsection 176(6) of the act is amended by adding the following clause:

"(n) respecting municipal programs to govern sewage systems, including, without limiting, the generality of the foregoing regulations,

"(i) providing for the issuance by municipalities of certificates of approval under part VIII,

"(ii) providing for the issuance by municipalities of permits under part VIII,

"(iii) providing for the making of orders respecting sewage systems under this act,

"(iv) providing that members of any class of officers

and employees of municipalities shall be deemed to be directors for the purposes of this act and the regulations in relation to programs established under section 81.1, and excluding from any such class all members who have not been designated for the purpose by the relevant municipality,

"(v) respecting conflicts between agreements entered into under section 81 and bylaws passed under section 81.1,

"(vi) respecting the territorial application of any class of bylaws passed under section 81.1."

The Chair: We have now heard the motion. We can hear arguments now from the members with respect to this issue, as to why it is or isn't out of order. Once we've done that, we can have a vote on unanimous consent to consider that motion.

Mr McLean: We already gave unanimous consent. We wanted to hear them.

The Chair: No, that was just to bring it forward, Mr McLean.

Mr McLean: Then let's hear them.

The Chair: Do we have speakers, or do the members want to listen to staff? What do you want to do?

Interjections.

The Chair: All right, we'll listen to staff.

Ms Sheila Willis: Good morning. I'm Sheila Willis, assistant deputy minister of the operations division for the Ministry of Environment and Energy. I'm pleased to be here this morning to try and explain what is contained in this amendment.

In responding to a number of concerns raised at this committee, our ministry attempted to craft the legislative framework which would in future enable us to pass a regulation permitting the kind of municipal action that has been talked about at this committee with regard to septic, their installation and inspection.

Jim Jackson and Myra Hewitt are here from our legal department to speak to the details of the amendment, and Wilfred Ng, whom you've heard from before, our director of approvals, is here to speak to any of the details about a subsequent program and the various aspects of it, if you want to go into that.

With that, I'm prepared to answer questions, or we can go through it clause by clause to discuss the kinds of powers intended in this amendment.

The Chair: Let's leave it open to the members. Do the members have questions of staff, questions of the detail that's within that motion?

Mr McLean: I have a couple of questions. I'd like to know if this is going to refer to rural schools in Ontario. Will this be part of the installation and inspections they would go under? I guess the basis of my question is: Are rural schools going to be able to put in systems? Will they be able to continue to expand the schools for rural Ontario?

Ms Willis: This would in no way change the ground rules and conditions around which septic are currently approved for installation or expansion. Those provisions already exist and those guidelines already are in place in

our ministry, so this would not change any of those considerations.

1050

Mr McLean: But you had said it's going to affect the installation and inspections. In what way is it going to affect the installations?

Ms Willis: It may or may not affect any part of the sequence of events that takes place, from a land use approval to the installation and inspection of installation or reinspection at some point in the future. We're not at this point able to anticipate the elements that would go into a municipal program, so we have provided here for a wide range of powers. It would be our intention, following passage of this if it were successful, to embark on a consultation with various stakeholders, including municipalities, who would eventually carry out the program, to determine what aspects need to be incorporated. That program would then be defined in a regulation, which would be passed at some point in the future, once that consultation is complete. When that regulation is passed, it would then be optional for municipalities to participate, or not, in the program.

At this point, it's difficult to determine or anticipate which elements of a program would be included, so we've had to provide for a range of activities that might then come under the municipal purview.

Mr Jim Jackson: I'm Jim Jackson. The principal possible change would be that the approving authority that actually issues the certificates of approval for septic tanks or for amendments, changes in sewage systems, might switch from being the current one, a local board of health for example, to a local municipality or an upper-tier municipality. That would depend on how the program was designed and what the existing municipalities that were involved in the existing program wanted to do.

Mr McLean: It says that the municipality "may by bylaw." What would an unorganized territory do?

Mr Jackson: The Environmental Protection Act, unlike the Municipal Act, includes boards of health within the definition of municipalities; and in the unorganized territories, either boards of health administer part VIII, pursuant to agreements under the existing section 81, or the ministry administers it directly if the board of health has determined it doesn't want to participate in the program.

Mr McLean: So the minister himself could dictate whether an unorganized territory is going to be covered under this septic system.

Mr Jackson: A director who was an employee of the Ministry of Environment, yes.

Mr McLean: The director could do that. He could direct that that be—

Mr Jackson: The director determines, when somebody submits an application to him, whether or not an approval should be granted.

Mr Ron Eddy (Brant-Haldimand): Thank you for appearing this morning to speak to this very important matter. Indeed the Liberal caucus was going to present an amendment, not nearly as complete as this framework, but to give municipalities permissive legislation to

regulate installation of septic tank systems and inspection. Our friends at AMO are very anxious, or are agreeable, I guess, that there be permissive legislation.

I'm familiar with the present system. MOE is responsible for inspecting the installation of septic tanks and septic systems. They have delegated that, in many cases, to boards of health, to municipalities where boards of health have become committees of, for instance, regional council, and, I believe, in two cases, conservation authorities.

Now in 81.1(1), "a municipality in a class prescribed by regulation may, by bylaw,..." I'm trying to figure out how this fits. I believe you said it will be possible, as determined locally, whether it be the local municipality or the upper tier that can take that on—I guess we need to know how they'll be prescribed. Will municipalities be prescribed perhaps on request? They'd have to pass a bylaw. Would that be the upper tier in some cases, and in some cases the lower tier? Will whichever tier is prescribed be allowed to delegate it to the same group that presently inspects the installation, or how do you see it? I'm not clear on just how it will work in comparison to the present system of inspection of the installation.

Mr Jackson: Whether or not it would be delegated from one level of the municipality to another would depend on how the program was designed after consultation with the municipalities. It may be that a delegation would be unnecessary because the prescribed municipality would be the municipality that was actually going to do the work, or the board of health. It may be unnecessary to have any cross-delegations between the municipalities.

Mr Eddy: But it won't necessarily be tied in with the present system of inspection. I would think it could and maybe should, although I guess a municipality would have a choice.

Mr Jackson: This is designed so that it can be tied in or could replace it and flip it over from being done under an agreement to being done under the program, or, depending on how the program is structured, you could continue to have agreements that dealt with part of the whole part VIII program and programs under the new provisions that dealt with the balance of it, including reinspection. There's a limitation on the reinspection powers, a limitation on the authority that's available currently. This expands the authority to cover all re-inspections.

Mr Eddy: Let's use an example, the region of Peel. At present, I believe the region of Peel has dissolved its board of health. It has a committee of council; therefore the regional municipality is responsible for the inspection of installation tanks. In Peel, we might get one of the three municipalities that is interested and wishes to proceed to pass such a bylaw, for instance Caledon. If Caledon wishes to go ahead with this, it'd be through a consultation process with MOE—

Mr Jackson: And the regional municipality too, because you wouldn't want the two municipalities conflicting with each other.

Mr Eddy: As to who would do it. It could be that Caledon decides to do it, or they could have the region of

Peel do the work in the Caledon area.

Mr Jackson: That's right.

Mr Eddy: Okay, I see. That's helpful.

Mr Winner: Just one question concerning subsection (3) of the change to section 81.1. Under what circumstances would you contemplate the municipality exempting certain persons or classes of persons from the fees?

Mr Jackson: It's not known. That would depend on the results of consultations with municipalities. But under the Municipal Act now, municipalities do have authority to in effect exempt from fees by providing financial assistance to a property owner. Perhaps old-age pensioners who didn't have any other income might be. If they wanted to, they could do that. That would be up to them.

1100

Mr Curling: I just want to ask the deputy, or is it the assistant deputy?

Ms Willis: ADM. Thank you for the promotion, though.

Mr Curling: I know you're quite capable.

I'm sure your ministry has been following the act very closely, and I'm sure your ministry was anticipating the fact that this part on the septic tank area should have been included. It wasn't included, and now somehow the cabinet has gotten its act together and wants to put it in.

Do you feel it's important that not only it is put in but also that it should be debated in detail? I won't be asking you detailed questions on this. Why do you feel we should be debating this right now, that we should accept it and must debate it right now? Because it is relevant for the things we will do in the next sections?

Ms Willis: I can't speak to the second part of your question. That's the dynamics of this committee.

I can comment on the ministry's decision regarding this issue. We share the concern that many people have brought to this committee, and it has been explored and debated. Ours was not a reservation of substance, it was a reservation of process. We felt that in order to craft a proper program we would need extensive consultation with a number of stakeholders, whether that's the municipalities, the health units that are currently engaged in working through the front-end part of the program with us, cottage associations, tourism associations, any number of people who would be impacted by such a program.

What we have managed to achieve by approaching it this way is laying the legislative framework which will allow us to embark on that consultation and then craft the program and prescribe it by a regulation. We feel we need to hear from them how a program might work and interface with the ministry in our various other activities.

So it's not reluctance to the undertaking, it was caution around process. This in fact is a wonderful compromise in that nothing will happen once this is passed until we have the regulation in place. We will have that in place once we have consensus and comfort with all the stakeholders, and I think that will happen over the months ahead.

Mr Curling: That's a very good answer. Let me just ask the Chairman, since the parliamentary assistant—and I'm sure they have kept him up to date about the process.

As the assistant deputy stated, of course consultation has to be done with many of the stakeholders in order to put proper legislation in place, and this wasn't done. In other words, Bill 163 seemed to be a bit hurried and not completed, and as we go on the way, we just make up the rules as we go along. As a matter of fact, that's why today we have this section being included.

While my party has no objection at all to including this part in the process itself, why is it, I will ask the Chairman, that you are allowing debate of detailed sections of the act now, when we are only talking about whether we should we include it, and then when we get to section 61 we will ask all the relevant questions to the various ministries?

The Chair: Mr Curling, we had about 25 minutes of discussion on this matter. There was unanimous consent to step this matter up, it was read into the record, there was agreement to ask staff to speak to this, and members began to ask questions. That's what we're considering. At some point we will consider the vote on whether there's unanimous consent to have this matter considered.

Mr Curling: No. I don't think that was the understanding I had. I gathered that we want to put on the table whether or not it will be included. We voted on that to bring it forward. We know it's out of order to debate it now. Now you're saying we gave you permission to debate it. That was not the case.

The case was that here we have an amendment—an inclusion, as a matter of fact—and even within that inclusion in the act we had an amendment, because it changed. The one we got this morning when we walked in here was amended again by the time we sat down. We had no chance, in other words, to understand what we are talking about. Even the parliamentary assistant, reading one, wasn't updated until he got the other page to say that is another one.

I'm saying to you, sir, that we agreed for it to be a part of it, and then when we get to it we'll debate it. Just like AMO said, "What we see, we agree to in principle." We're not debating this in principle now, we seem to be debating in detail about the matter of the amendment. The question I ask of you is, at the end of this debate, will there be a vote to accept this as part of the act?

The Chair: At the end of this discussion, there will be a motion about whether there is unanimous support to have this matter to be considered, at which point we could still have further debate on the motion, whether members want changes, amendments to this one or not, and a final vote about whether you agree or disagree with the final motion. You still have the power to say, if you don't want to, "You don't have unanimous consent to have this matter considered."

Mr Curling: Help me to understand this. When we come to section 61, will there be—

The Chair: We are there. We have brought it forward. We have done that.

Mr Curling: That wasn't the understanding, to say

that we're bringing it forward to debate it.

The Chair: Mr Curling, it was the understanding of this committee. Perhaps some members didn't think that was the understanding.

Mr Curling: This is rather confusing. All I was doing was to bring it forward, to say yes, it would be inclusive, and then when we come to 61 we'd debate it. We accept this in principle, that this should happen. Now you're telling me that we're debating it in detail and a vote will happen to accept that.

I think we were hoodwinked; I mean, I was. I wasn't in full understanding of it all. I just felt we were bringing it forward, and then when we get to it we'll debate it. It is very unfair for my party to be debating this in detail when they were changing it along the way: between 8:45 and now it changed twice. You're saying that we're debating this and we'll be voting on it at the end of the period.

The Chair: I'm sorry. It may not be helpful to respond to this other than having—

Mr Curling: No, it would be very helpful.

The Chair: We agreed to move this matter up. That was done. Then the motion was read into the record. There was a sense from the committee that they wanted to hear from the staff about this particular amendment that was coming forward. Members began to ask questions on the bill. Some of you have done that, on both sides. At some point, once the questions are over, we will ask the question, "Is there unanimous support to have this matter considered?" If you say no, this amendment doesn't go anywhere. That's what we agreed to.

Mr Curling: Having the matter considered, meaning we'll vote on this section of the bill?

The Chair: No: Is there unanimous consent to agree whether or not this amendment should be considered. It's not a vote on the amendment, it's a vote on whether we should consider to have a vote eventually on this amendment. You're not voting on the amendment, but consideration of it.

Mr Grandmaître: Will you be dealing with our amendment as well, Mr Chair?

The Chair: We'll have the same discussion at some point.

Mr Grandmaître: "At some point" when?

The Chair: When we get to it. But if you want to have a motion to move yours ahead as well, we could have that discussion.

Mr Grandmaître: And that's in November.

The Chair: Once we finish with this matter, if you want to have the same motion to move that matter up, we could have the same discussion.

Mr Wiseman: Mr Chair, if I understand it, if we've moved up section 61, we should also consider their amendment at the same time.

The Chair: I am prepared to move to the next step rather than continue the debate on this matter. I think I clarified Mr Curling's question.

Mr Johnson, you have questions to the staff, correct?

Okay. If you don't mind, I prefer that we move on and try to finish off whatever questions or comments members want to make on this matter, and at that point we will have the vote on whether there's unanimous consent to consider it.

Mr David Johnson: At the present time, the Ministry of Environment, I gather, has responsibility for ensuring that septic tanks are properly maintained in the province of Ontario.

Ms Willis: That's correct.

Mr David Johnson: We've heard various numbers through the deputations, but can I get it right from the horse's mouth? How many septic tanks do we have in the province?

Ms Willis: We have approximately one million now operating in Ontario.

Mr David Johnson: Does the ministry have any estimate of how many of these are operating satisfactorily and how many are otherwise?

Ms Willis: Let me say that we concentrate our efforts and resources on inspection and installation, primarily through the health unit part VIII program, because we believe that if the lot is geologically acceptable to install a septic and if it's properly installed, it will probably function quite adequately for some time.

On a reactive basis, when we get questions or are notified of concerns or complaints, we go out and reinspect to determine whether or not a system is functioning properly and then take the appropriate action. Additionally, because we're constantly monitoring rivers and streams, we get indications that there may be septic systems that are not operating properly and we follow that information back to determine whether some are malfunctioning.

Last year, we inspected about 14,000 septic tanks through either of these models and found about 2,000 to be malfunctioning in one way or another. So one could say that about 14% of where we suspect trouble, there is trouble. If you extrapolated that out, you would say that perhaps somewhere in the neighbourhood of 15% of the septic tanks in Ontario might be malfunctioning.

1110

Mr David Johnson: In the 14,000 you inspected, though, you had some reason to believe that there was a problem.

Ms Willis: Yes.

Mr David Johnson: And that's probably not true of the majority of the septic tanks in the province of Ontario, so the 15% actually could be on high side.

Ms Willis: Yes, it could be. I'm saying if you take the worst-case scenario and extrapolate it out.

Mr David Johnson: Is there a program in place in the province of Ontario to ensure that septic tanks are properly functioning, or is it simply by complaint or by somebody registering a concern?

Ms Willis: We become quite familiar with the lay of the land, in terms of the staff out in the field, and we're familiar with local situations. We become knowledgeable of some of these situations because of specific concerns

raised by home owners, neighbours, cottagers, farmers, whatever. As I say, through our specific monitoring of the water bodies, we're able to detect the problems; those are our monitors, if you will, and then we follow up on each of those situations. But we do not go place to place, house to house, with a full, widespread inspection program.

Mr David Johnson: What sort of budget does the ministry have for inspections?

Ms Willis: Currently? Right now, we have a budget of about \$6 million, which is in money that is transferred primarily to the 34 health units and the two conservation authorities that carry out the installation inspection program for us. I have a number of staff in my regional operations branches who, in their abatement work, follow up or inspect as necessary and take the appropriate action. Additionally, we have water resource staff who are familiar with it and do a lot of the work associated with determining the situation. I would estimate that in total, up to 21 people are involved in the program inside our ministry, from approvals right through to reinspection.

Mr David Johnson: You indicated that about \$6 million is transferred to health units and conservation authorities?

Ms Willis: That's correct.

Mr David Johnson: Under this particular amendment, the municipalities would have the right to fix a fee for the inspection.

Ms Willis: Yes.

Mr David Johnson: What would happen to the money that is currently being transferred to the 34 health units and the two conservation authorities? What's the intention?

Ms Willis: There is no intention at this point except to continue with the existing program, except to the point where, in consultation, we determine that that ought to be part of a broader program that municipalities might opt into. I would not want to, at this point, undermine that relationship with the health units. We would want to continue that until we were assured that municipalities would pick it up as part of a broader program. At that point, we could all determine how that money could then best be used or whether it was indeed necessary, depending on the approach to user fees, education around septs, and other aspects of the program are considered.

Mr David Johnson: I sense you're going to have a dilemma at some point, because the 36 existing entities that are sharing in the \$6 million are not going to be too anxious to lose that provincial funding. If they do, that's going to be called downloading. At the same time, if other municipalities participate in the program and don't receive the same financial consideration from the province of Ontario, that's going to be a problem too.

Ms Willis: There are two distinct pieces of the action, if you will. The money I referred to has to do with inspections at the time of installation, and we would still want to continue to have inspections done at the time of installation. We feel that's paramount to a proper working system.

Whether a new program or element of a program is introduced that would be a reinspection aspect, that would be new and additional to that and we would have to discuss how municipalities would go about establishing fees and charging those fees or collecting those fees if a new element were designed.

Mr David Johnson: Are you saying that none of the existing money that is transferred to the health units and the conservation authorities is used for reinspection at the present time?

Ms Willis: That's correct.

Mr McLean: If somebody complains, where do they get the money?

Mr David Johnson: My colleague is saying, if there is a complaint and the municipality sends the health unit out to inspect—I don't know. Does the funding from the province simply go en masse to the health units, or do you pay by the inspection, or how does that work?

Ms Willis: Wilf can give you the details, but you should know that this only represents a portion of the total fees or costs associated with running that front-end program. There is in our regulation now a minimum fee of \$35 per inspection at time of installation. Municipalities—or read their health units—have chosen to raise that amount, and some municipalities charge as much as \$200, to totally offset their costs associated with it. So the program is partially run now at municipal cost and therefore transferred to the users, and part of it is underwritten by the ministry. If you want more specific details on that, Wilf could speak to it.

Mr David Johnson: Maybe Wilf could tell me again. Does the money that flows from the provincial government to the municipalities, to the health units or the conservation authorities, flow in a bulk sense or does it flow based on the number of initial units that the inspector—how does it work?

Mr Wilfred Ng: The agreements were usually entered into between the region and the health units, and my understanding is that the allocation would be based on workload, so that would be depending on the number of inspection, the number of approvals issued.

Sheila mentioned that we provided a grant of \$6 million a year, but that is not the total budget for the maintenance of the program. If you add the health unit costs and our costs involved, that would add up to between \$11 million to \$13 million. So the costs for the maintenance of the whole project is not \$6 million. I just want to clarify the point.

Mr David Johnson: But the rest of the money comes from the local property base, taxes.

Mr Ng: Yes.

Mr David Johnson: Can you tell us that it's not your intention to withdraw funding, at this point? There are going to be negotiations, presumably, and you've used the words that when the regulations go out, you're going to get "consensus and comfort." Those are not words that, in my short stint here with the province, I've heard associated with regulations. At any rate, maybe this time it will work.

Ms Willis: I cannot predict how the Treasurer will

deal with our allocations in the years ahead, but it is not the intent of this instrument to cause any change in our current level of funding for this program. Whether other considerations make us review that is always open, but this is not an element of this amendment.

Mr David Johnson: Do you ever foresee a time when this program would become mandatory on municipalities? Right now it's permissive. Is it the Ministry of Environment's view that—

Ms Willis: Once again, everything's difficult to predict. It is not the intention at this point to make it mandatory. I would think that however the program is crafted, the success of the program from municipality to municipality would encourage other municipalities to participate in it. That would be, I would think, instrumental in drawing more municipalities into it.

Mr Wiseman: It would take a legislative committee to do that, wouldn't it?

Ms Willis: It would take a subsequent legislative amendment to make it mandatory program rather than an optional program.

Mr David Johnson: Have you had a demand for this kind of program over the years, from municipalities or environmentalists or citizens, from any source?

Ms Willis: It's an issue that comes up from time to time, yes. When we meet, for instance, with the Federation of Ontario Cottagers' Associations, they're concerned about the proliferation of septic on specific cottage lakes. They have carried out inspection programs themselves, or, using Environmental Youth Corps staff, tried to keep abreast of the septic situation on their lakes, as it's very important to them. Municipalities have raised it from time to time, but we have not engaged in any deliberate dialogue around it to this point.

Mr David Johnson: Shifting back to the specifics of the bill, you've not indicated any kind of time frame in terms of the program for inspections. AMO has suggested five years, but you've left that open.

Ms Willis: Yes, that would be an element of design of the program once all the information is on the table.

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Mr David Johnson: Have you any thoughts on that matter? I've heard some experts' opinion that five years is actually somewhat too frequent, that it may not be required every five years.

Ms Willis: It may not be, or there may be ways of selecting, depending on problem situations, how frequently you inspect in a particular area. That way, a municipality later would be able to design its own deployment of the program to concentrate on areas of concern. As we know, sometimes septs operate for 30 years without any problem; in other cases, they can malfunction very, very quickly, depending on how the household is using them, what's going in them, capacity, factors like that.

Mr David Johnson: You've left the fees open as well. Do you intend to put any limitation on the fees that could be charged, or do you intend to leave that to the municipalities to fully determine?

Ms Willis: I would expect that the municipality could

approach it two ways. They could see this as a service to residents of the municipality, given that in some cases people are hooked up to sewage plant systems and the municipality absorbs the cost of those in the general tax base. They might, for instance, view this as an extension of that and mould the costs into the general tax base as if it were a different approach to providing septic systems for the municipality. They may in fact approach it from the perspective that if you are off the sewer system and on an individual septic, they might choose to apply the cost associated with the inspection to the individual home owner.

It would be up to the municipality to determine which is more appropriate, given perhaps the balance of septic to sewer systems in its municipality. Some municipalities are totally on septic. They vary.

Mr David Johnson: In that regard, I guess you're aware of the position of the Association of Municipalities of Ontario. Their point is that municipalities should not be required to conduct the inspecting or charging for the inspection. I'm reading from the brief they presented, although they have another letter, I think today, indicating that they're prepared to work with you and they're in general support of the principle. Still, in the specific brief they made to this committee, they indicated, number one, that municipalities should not be required to conduct the inspecting. Maybe your point there is that you're not, that you're making it permissive. But I read into that that maybe they felt MOE should be more proactive in terms of doing the inspections rather than municipalities.

Let's focus on the other part. They felt that municipalities should not have to charge for the inspection. I think one complaint that's going to be made is that this is your responsibility, that septic tanks are the responsibility of the Ministry of Environment and you are shuffling the cost off on to the property owner, either the property owner or, as you say, to the municipality if the municipality folds it in. That's what, in municipal jargon, they call downloading. How do you react to that?

Ms Willis: As I said earlier, we do carry out inspections. We do not cover the province. We selectively target areas of concern. We carry that out now, and might for the future. If the municipalities choose to approach it more aggressively through this permissive program, I would presume they would be prepared at the same time to absorb the associated cost or use a user-fee basis.

Mr David Johnson: Today, who is responsible for septic tanks in the province of Ontario? If there's a problem, if there's a violation, by law who has the responsibility today?

Ms Willis: By law, the individual home owner or operator of the septic tank is responsible for ensuring that their septic is in good working order and is not having a negative impact on the environment. We have strict guidelines, for instance, for water quality at the property edge etc, and they are individually responsible. If we were to go in and inspect now, we would require someone who has a malfunctioning septic to put it in good order and they would absorb the related cost.

Mr David Johnson: That's fair enough. What government has the responsibility to ensure that the

individual property owner lives up to his requirements?

Ms Willis: Right now, the Ministry of Environment has that responsibility, and I believe we carry out that responsibility as best we can, given our resources and our other environmental concerns. We work very hard in my division to balance a work plan, and in our estimation are attending to this situation in an appropriate fashion, given our resources. As I said, if an individual municipality wanted to approach it more aggressively or devote more resources to it, this would provide that opportunity for them to do it with the proper authority.

Mr David Johnson: So at present the Ministry of Environment is the government that has the enforcement authority. You're giving some of this enforcement authority, on a permissive basis, to the municipalities, but along with it goes the cost, either to the municipality or to the local property owner. I'm quite confident that that's going to be viewed as a shuffling of financial responsibilities from the provincial level to either the local level or the local ratepayer.

Ms Willis: I don't see it that way. I see it as a selected enhancement to what we're currently undertaking to provide for different circumstances in an individual municipality, and we want to provide for that opportunity.

Mr David Johnson: Are there any qualifications that the provincial government will specify for whomever inspects the sewage system, or are there any today?

Mr Ng: There are procedures and guidelines in place on that issue, but I don't think we have a formal training program in place, and this is what we want to develop in the future. We want to develop a formal training program for inspectors to provide them with guidance as to how the system should be inspected.

Mr David Johnson: Would that include qualifications—apparently, most of the inspectors today come from health units.

Mr Jackson: The current regulation does provide minimum requirements in order to be qualified to be an inspector. For example, a qualified public health inspector meets those qualifications. That's not the only way to meet the basic requirements, but that's one of them provided by the regulation. Presumably any program that was developed would have at least that level of qualification required for inspectors, but that would be developed in consultation.

Mr David Johnson: So the normal, run-of-the-mill municipal employee would not have the kind of training or qualifications that—

Mr Jackson: Not unless he receives some special training with respect to it.

Mr David Johnson: I hate to raise this, but there again that's a cost the municipality would have to incur. Is the ministry entertaining any assistance to municipalities in terms of training people to be involved in this kind of program?

Ms Willis: I would anticipate that we would have a strong role to play in developing guidelines to complement the program as it's designed, in developing training and outlining what the training requirements might be for inspectors, and providing additional information to people

who operate septics so that they're kept in good repair. I think we have a strong role to play in education and training in the future, whatever happens to this amendment.

Mr David Johnson: What other procedures do you anticipate that municipalities will inherit if they accept this authority that's permissive? I'm thinking along the lines of recordkeeping or reporting or that type of thing, administration in general.

Mr Jackson: The program of course will be developed in consultation, but if a municipality is running a program it will naturally have to keep records. The program may specify some detail as to what records would have to be kept. If the program extended back to the inspection of land for suitability for septic tanks before they're installed or before a land use change is approved, that could also be included in the program if that's what the municipalities want. Health units or contracted municipalities do it now.

Mr David Johnson: The 34 health units involved at this point keep some sort of records, presumably.

Mr Jackson: Yes, they're required to keep records of all the approvals they issue and all the inspections they make.

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Mr David Johnson: Is there a record of the one million septics in Ontario today? Do we have it somewhere?

Mr Jackson: There is a record of part of that. Many of them were installed before Easter 1974 when part VIII of the Environmental Protection Act came into force.

Mr David Johnson: I'm looking at the last page here, under (7). It refers to municipalities and the issuance of certificates of approval, and municipalities and the issuance of permits. Can you explain to me what the difference between those two would be?

Mr Jackson: Yes. Under part VIII of the Environmental Protection Act you need a certificate of approval to be able to install a septic tank or other type of sewage system regulated under part VIII. Most of the types of sewage systems for which you need a certificate of approval must be inspected and a permit issued after they're constructed and before they're put into use to ensure that they were constructed in accordance with the approval.

Mr David Johnson: And then the next clause talks about making orders. Is that an order of a violation, or what order are you referring to?

Mr Jackson: Under part VIII of the Environmental Protection Act, directors, who include people who work for health units in municipalities where we have agreements, can issue orders where there is a faulty sewage system, requiring it be improved or replaced.

Mr David Johnson: To go along with that ability to issue an order, what teeth do municipalities have to require that the order would be obeyed? What would be the procedural steps? For property standards, for example, municipalities pull their hair out trying to enforce them.

Mr Jackson: There are two different routes available.

If an order is issued to a property owner and he doesn't comply with it, he's committed an offence, so there's that route.

Mr David Johnson: But that involves court procedure, which is lengthy.

Mr Jackson: It can be. The more likely route is that directors who issue orders requiring that things be done have the authority, if they're not done, to arrange for the doing of them themselves. The Environmental Protection Act already has a provision in it, and I guess there's a similar provision in the Municipal Act for the non-health-unit municipalities, to recover the costs of work they do to implement an order that isn't carried out by the person to whom it was issued.

Mr David Johnson: Are you saying that the 34 health units, for example, in those municipalities would have that authority today?

Mr Jackson: Yes.

Mr David Johnson: That if they found a violation of a septic system, notified the owner and presumably gave the owner some period of time to comply—what is it, 30 days?

Mr Jackson: Or more. It depends on the season of the year and the nature of the problem.

Mr David Johnson: That municipality can go in and dig up that septic system, whatever is required, do it themselves?

Mr Jackson: And charge the cost to the municipal taxes, yes.

Mr David Johnson: How many municipalities would follow that procedure? I can imagine the problems associated with that.

Mr Jackson: I occasionally get telephone calls from health units asking for advice on how to do it, and my usual advice to them is that they consider cheaper ways to do it.

Mr David Johnson: It's dangerous too.

Mr Jackson: It becomes impractical in residential properties, but in commercial properties, for example, they could include a provision in the order that says, "If you don't do A, B and C, you disconnect your water system," and if the commercial property disconnects its water system, then of course there is no longer a sewage problem: The commercial property can't be occupied for commercial purposes any longer. So there's an incentive.

Mr David Johnson: It would be interesting to see if that stands up as being a legal approach, number one.

Mr Jackson: It's been used on a number of occasions.

Mr David Johnson: But, number two, that wouldn't help in a rural area where you had a well. I can well imagine there would be a great deal of antagonism to the local unit coming in to dig up somebody's—

Mr Jackson: It is unlikely that a director would take that approach with respect to a residential property.

Mr David Johnson: Does the Ministry of Environment offer any assistance through enforcement procedures if there's a problem? The court process is pretty lengthy.

Mr Jackson: Yes. On occasion a municipality that has an agreement with the ministry will ask the ministry itself to issue an order and enforce it, and that can be done—

The Chair: Mr Johnson—I beg your pardon, Mr Jackson. Please complete your sentence.

Mr Jackson: There are other programs the ministry has that have assisted local residents in areas with problems, with grants to upgrade either their wells or their sewage systems or both.

The Chair: Mr Johnson, can I raise a matter with you?

Mr McLean: Don't raise it for too long.

The Chair: There is a sense from some members—I don't know whether Mr McLean was part of that discussion yet—that there may be agreement to rule this motion in order but not to have it dealt with today. If there was agreement to that, that would give the members a fuller opportunity at the appropriate moment later on to ask all the detailed questions.

Mr David Johnson: Just let me ask one more question and then I will concur in that general agreement.

The Chair: All right.

Mr David Johnson: I'll get the rest of my questions for a later time, I guess.

The other part of AMO's request—or maybe it was the Sewell commission. The Sewell commission's recommendation was that the Ministry of Environment should take a lead in research and development on private systems. I presume they're talking about private septic systems. As we're being pushed on here, could you quickly outline to me what lead, specifically in terms of money and initiatives, the Ministry of Environment is taking with regard to research and development of private septic systems?

Mr Ng: The ministry has a funding program in place to support the development of innovative technologies.

Mr David Johnson: How much?

Mr Ng: I do not know how much the budget is because that is not with our branch, but that would include funding for technologies involving septs. I can undertake to find out how much money we have for the program.

Mr David Johnson: And let me know? Thanks.

Mr McLean: Could I have a clarification, Mr Chair?

The Chair: Sure, Mr McLean.

Mr McLean: A grave concern has been raised with me with regard to the five years that AMO has been recommended. I would hope that in the regulations, a municipality could set its time limit, up to a maximum of 10 years. That's what I'd like to see.

Ms Willis: I would think that in the program that is eventually designed there would be a number of variables in it, and those variables would be elected or crafted by an individual municipality depending on the nature of their municipality, the number of septs, their budgets, any number of things, and they could probably put in a rotation that's—they may, for instance, want to do a hierarchy of what types of septs are actually inspected

at what intervals. There may be a number of variables there.

Mr McLean: I wanted to express that concern.

Ms Haeck: I appreciate the information you're giving. Most of us who are in urban areas don't tend to think about septic systems, though the reality is that even some major urban areas—I understand there are some septic systems in Rosedale and in Scarborough; not many, but a few. We ran into a few in St Catharines that malfunctioned and the public health unit sued the owner.

I understand that in some places, particularly some areas of Middlesex, I think, you've encountered some pretty major problems with septic systems, some fairly major costs to the ministry when these septic systems failed.

Mr Eddy: Fortunately, the problem's been transferred to the city of London by the government.

Ms Haeck: Let me just finish the question, Mr Eddy.

You've got a situation where these new homes have been built, and they're pretty costly homes, with septic systems and they've failed. Could you give me some idea of what was involved in remediating the problem? If you have any figures as to costs involved, I'd appreciate it. Some of the other members might also appreciate knowing what is involved in this process, because it's not just a matter of the moneys you may put into the program in terms of inspection, but obviously the remediation problem can be quite costly for everyone.

Mr Ng: I don't have the exact amount of money involved in the remediation of that situation, but my understanding is that the planning was not done properly at the outset; that the number of houses put in afterwards exceeded what was initially envisaged and that put a strain on the septic system, which caused some problems in terms of local contamination. But I do not have any numbers about how much has been expended to remediate the situation. This is why we feel one of the important elements on a proper management of septic systems would be through proper planning at the outset, and this would eliminate the problem afterwards.

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Ms Haeck: You have some figures, I believe, in relation to the kind of groundwater contamination that has occurred across the province. I'm not sure exactly who put me on their mailing list, but the University of Waterloo has a groundwater department, and from getting their publications I'm aware that it is a pretty major issue across rural Ontario. I've heard one study indicate that something like 30% of the wells in rural Ontario are contaminated. Is that your understanding as well?

Ms Willis: There are a number of factors that contribute to groundwater contamination in the province: industrial activity, individual activity, and certainly from malfunctioning septic systems. Unless you isolated the situation and examined the contributing factors, you couldn't say at the outset, without the proper testing and knowledge to determine what percentage or what aspect of the problem has been contributed by the septic systems themselves.

Ms Haeck: The Niagara Peninsula Conservation Authority has put in an application with regard to your

Clean Up Rural Beaches program, because they're trying to actually track, not just from farm practices but also from septic systems, the issue of contamination in the Welland River area, trying to determine the state of contamination. Is this something that's well used in rural areas as a means of getting a handle on what the sources of contamination are? Do you have any idea of the funds involved from your ministry as to investigating the problem?

Ms Willis: I'm sorry, I didn't come equipped this morning to answer specific questions about CURB and some of the other related programs, but we do have number of activities in the ministry that are complementary to getting information and getting a handle on the groundwater problems. CURB has been very successful in that regard. Our activities, for instance, in the remedial action plans for the areas of concern link us backwards into sometimes problems associated with septic systems. We do, through the Ministry of Agriculture, Food and Rural Affairs and the Ontario Federation of Agriculture, work with the rural community and rural municipalities to identify and work at remediating those situations.

Ms Haeck: I'd like to follow up on the point Mr Eddy raised going back to the Middlesex situation, and I think it also relates in part to the points Mr Johnson was raising in part (7) of this amendment. In fact the municipality is responsible for the issuance of the certificate of approval, and obviously the municipality is responsible for a lot of the planning, so if they've done faulty planning and they've issued these certificates of approval, to my mind they're also probably responsible for some of the costs with regard to remediation. Is that the position the ministry is taking in this regard?

Ms Willis: Sometimes it's very difficult to unravel the history of some of these situations. As Mr Jackson pointed out, some of the septic systems were installed long before there was a Ministry of the Environment and a part VIII of our act, so we're dealing with 100 years or more of aggregated situations in the province. While you may be able to point to a specific situation and say better planning might have avoided that situation, in other cases it's just the way the province has evolved over the years. I would think that with the passage of this bill, municipalities will be viewing their new, enhanced responsibilities with regard to planning in a way that will probably keep them away from some of those ill-fated decisions.

Ms Haeck: A good, diplomatic answer.

Mr Eddy: I'd just like to follow up on some of the points made by the previous speaker. It's not that my own reputation is at stake or anything like that, but what happened is a concern. A particular situation, a very bad situation, was mentioned, which causes concern to all of us, I expect. If it doesn't, it should.

But I just want to point out as a matter of information that it was not the municipality, namely, the former township of Westminster, that made the decision on the installation approval of the septic tanks and the system which failed horribly. It was the Middlesex-London board of health, at least the officials were employees of the Middlesex-London board of health, which included representatives from the city of London, the county of

Middlesex and the province of Ontario—two appointees, I believe. There wasn't any actual representative from the particular municipality, I don't believe, on the board of health that approved it.

Of course, that's one of the reasons I was asking about this particular amendment—which we're not discussing—compared to the present system for the inspection of septic tank systems, which has now gone to, I understand, the Upper Thames conservation authority—maybe it's Upper Thames and Lower Thames—and it's not being done by the board of health any longer. But it wasn't the municipality, really.

Maybe I was not as clear as I should have been. The actual approval of that would be done by employees, officials of the Middlesex-London district board of health, but under rules and regulations of the ministry rather than under rules and regulations of the particular board of health. Indeed, the actual decision may never have come before the board of health, really.

Ms Willis: I appreciate the additional information, but I'm not sufficiently familiar with that case to add anything.

Mr Eddy: But is that what happens in cases where boards of health have jurisdiction, or I guess where the conservation authority is responsible for the inspection of installation of septic tanks and septic tile beds? That decision is made by employees and officials of the organization acting under the rules and regulations of MOE rather than the rules of the particular body.

Ms Willis: That is a very fair interpretation, yes.

Mr Eddy: Thank you. I just wanted to be clearer than I was.

Mr McLean: Mr Chair, while ministry staff is here, I wonder if I could get a clarification. I raised the issue earlier with regard to schools in rural Ontario. As a matter of fact, there's a school on the back of my farm, and they need an addition and further septic system or septic approval in order to expand. Is the ministry looking into an overall plan? I know there's one in Duntroon, near Collingwood, in the same situation: They can't expand because of the septic systems they have. There's one school in Guthrie, in Simcoe county, that has a unit put in which is on an experiment, I believe.

Ms Willis: That's correct. In fact, my director of central Ontario region worked with the local officials and the school board to try to effect that solution, and it was in fact a need to expand the school facility on a site which was constrained geographically and not capable of taking on an expanded septic. They have looked at a modified approach to it, I believe with a holding tank component, in order to let the school facility go ahead. If that's properly maintained and pumped out regularly and watched very carefully, it probably should be fine. I think the Guthrie situation has been solved.

Mr McLean: So will you allow that to take place in other parts of the province?

Ms Willis: We would hold to our current guidelines—although guidelines from time to time are modified—on not approving the construction of a facility, a household, whatever, where a holding tank is required that's not the

prescribed method. But in a situation like this, where you're trying to fix something that's already in situ, it can be relied on sometimes as a solution, and we always have to try to be creative about that. But we would normally not want a site to be developed unless it was capable of containing and managing a complete septic system.

Mr McLean: So what you're saying is that the present sites that are there will be allowed to expand subject to—

Ms Willis: Subject to a number of guidelines and considerations. Obviously, it's not something that we want to have explode across the province. It's not a proper method.

Mr McLean: Thank you.

The Chair: Having heard some discussion from different people about what we might do, is there agreement to have this motion considered to be in order, and, once having agreed to that, that we then consider this matter at the proper time in the proper sequence?

Mr David Johnson: Along with the other motions with regard to septic tanks?

The Chair: Along with everything else that's there. Is there agreement to that?

Interjections: Agreed.

The Chair: Thank you.

Mr Wiseman: Can I get a clarification of just exactly what that means?

The Chair: Now that we've agreed, we'll thank the staff for coming and for the information you've given to us.

What it means is that when we get to this item, which is 188—

Mr McLean: In December.

The Chair: —we will consider that motion as in order and it will be dealt with as any other amendment that is before us.

Mr David Johnson: And the same will be true of any other amendments in here that pertain to septic tanks, whenever we get to them, wherever they seem like they will be considered—

The Chair: I think we would have unanimous agreement to agree to do that as well, once we get there.

Mr David Johnson: That was part of the motion.

The Chair: I would assume that would be the case.

Mr David Johnson: So that should be reflected in the minutes or whatever.

The Chair: Let us do that. I won't forget, as the Chair.

Mr McLean: If we bring an amendment in, it will be accepted as part of that.

The Chair: I'm assuming, based on this discussion, that if there's another amendment made by the different caucuses, we would consider it in the same spirit as we're doing this.

Mr Curling: Very much so.

The Chair: We would ask, for the motion, "Is there

unanimous consent?" and my assumption would be that there would be, based on this discussion. Okay?

Mr Wiseman: If I understand this correctly, what we're saying by this unanimous consent motion is that this committee has agreed by unanimous consent that this motion is now in order—

The Chair: That's right.

Mr Wiseman: —and that it is now in order to open up the Environmental Protection Act, when we get to it, in order to consider these amendments, including the Liberal amendment and the—I don't know. Do you have an amendment too? I am just making sure that what we're doing here is giving unanimous consent to open the Environmental Protection Act.

The Chair: Let me repeat the issue here. We said this was not in order because it did not fall within the scope of the bill.

Mr Wiseman: Now we're saying it is.

The Chair: Now we're saying it is. So it's an amendment that will be considered when we get there and will be voted on, yea or nay, with amendments or no amendments and so on.

Mr McLean: As this is in order, we now have the opportunity, if we feel we can make it better, to bring in an amendment to do it?

The Chair: Absolutely, as any other motion that is before us. Exactly.

Mr Curling: Mr Chairman, you have clarified beautifully that when we get there, it's opened up for debate. If the Liberals or the Conservatives have amendments, we'll put it forward, but we don't need unanimous consent to put our amendments forward, because now it's in with the normal process.

The Chair: That's right.

Mr Hayes: We have just given you that.

Mr Wiseman: We will consider all amendments.

Mr Hayes: On that issue.

The Chair: Exactly. On this issue.

Mr Curling: Thank you very much for listening to my concern.

The Chair: Very well. Given that it's close to 12 o'clock, this committee is recessed until 2 o'clock.

The committee recessed from 1154 to 1407.

The Chair: We will proceed from where we left off yesterday. A government motion, Mr Hayes, when you're ready.

Mr Hayes: I move that clause 17(38)(b) of the Planning Act as set out in section 10 of the bill be struck out and the following substituted:

"(b) the person or public body requesting the referral or the appellant did not make oral submissions at a public meeting or did not make written submissions to the council before the plan was adopted and, in the opinion of the board, the person or public body does not provide a reasonable explanation for having failed to make a submission;"

What we're saying here is that a public body should be subject to the same rules as a person, and if there are

concerns with the official plan or amendment, they should bring their concerns to council before the plan is adopted. The amendment also allows a person or public body to provide an explanation in response to concerns raised by community and environmental groups; there could be a legitimate reason or reasons why people did not participate early in the process.

This amendment was requested by various ratepayer and citizen groups, supported by the Association of Municipalities of Ontario, regional planning commissioners, the Urban Development Institute, the Canadian Bar Association—Ontario, and the Canadian Environmental Law Association.

Mr David Johnson: The parliamentary assistant used the word "legitimate" explanation for having failed to make a submission, but the word actually here is "reasonable." That was the word Christel Haeck used the other day and said that the word "reasonable" is open to interpretation. I have to agree. I wonder if the ministry staff could give us some guidance as to how he would anticipate that the word "reasonable" would be interpreted. Could he give us a few examples of what would be a reasonable explanation?

Mr Philip McKinstry: First of all, to preface what I'm going to say, we heard a number of submissions to the committee where people were concerned that they may not know about a proposal and therefore they may not have given input and therefore it could be dismissed. That's why we put this in. The kinds of examples that we were thinking about here were that if somebody didn't get notice, for example, if they did not receive a notice of the proposal, that would seem to be a reasonable explanation for them not participating early on.

Mr David Johnson: That's one example. Just to explore that, though, there is an area within which notice must be given.

Mr McKinstry: That's right.

Mr David Johnson: It's not here, but if you're doing an official plan amendment or something, there are certain people who have to be notified within an area, or it may be a general notice in a newspaper. It depends on the situation, I guess.

Mr McKinstry: Yes.

Mr David Johnson: If there is a specific area in which people have to be notified, and a person comes from outside of that area, didn't get a notice but there was no requirement that that person actually get a notice, would that still be considered a reasonable explanation?

Mr McKinstry: The determination of what's a reasonable explanation would be up to the person or body making the decision. But I'd point out that, in zoning bylaws, there is a very precise area of notice. In official plans, there isn't that precise area of notice. It's a general—

Mr David Johnson: Newspaper notice.

Mr McKinstry: It would be a newspaper notice if it was for the whole municipality; it might be to a neighbourhood if it was for a specific amendment. It would be up to the person or the body making the decision.

Mr David Johnson: So an official plan amendment

would be hard to argue, because if it was in a newspaper, unless it was kind of a local newspaper—

Mr McKinstry: That's right.

Mr David Johnson: Are there any other cases that the ministry would feel would be reasonable, beyond the fact that somebody didn't get a notice within the correct area?

Mr McKinstry: My first caution is that it won't be the ministry making the determination.

Mr David Johnson: You're making the bill, though.

Mr McKinstry: Two other examples that come to mind are where somebody moves into a neighbourhood after notice was given, so they would not have had that opportunity. Something we've heard a lot about is cottagers who do not have the opportunity to receive notice because they aren't there and it's only in a local newspaper, so that might be another example, I suppose. As I said, we won't be making the determination.

Mr David Johnson: I appreciate that, but presumably your ministry, the province, will be providing guidance. We would want this to be somewhat a consistent interpretation across the province of Ontario, would we not?

Mr McKinstry: We might certainly provide some bulletins. Our plan is to provide bulletins on a number of the new sections of the act, so that would certainly be a possibility, to give some helpful suggestions.

The Chair: Further speakers? Seeing none, all in favour of the amendment? Opposed? That carries.

Mr McLean: Mr Chair, on a point of order: When we left off last night, 17(38)(a)(iv) of the Planning Act, it was discussed but it was never voted on.

The Chair: I have here "carried."

Mr McLean: I haven't.

The Chair: I have a check mark here beside my notes. Is that the case? Yes. They all agree with me here.

Mr David Johnson: The official scorecard here says it was.

The Chair: The official archive department says yes. Okay, Mr McLean?

Mr Hayes: I move that subsection 17(39) of the Planning Act, as set out in section 10 of the bill, be struck out.

This is quite similar to what we said in the previous one, that a public body should be subject to the same rule as persons, and if there are concerns with the official plan or amendments, they should bring their concerns to council before the plan is adopted. The people who requested this type of amendment are the same ones as the previous one.

Mr Curling: What is this mean? You're saying a public body can now—it says "does not apply to a referral request or appeal by a public body." Therefore, a public body can now give a reasonable explanation for having failed to make a submission. You're saying they can do so now. You said we're striking this out, because this was the exception. I understood this as being that the exception here doesn't apply to public bodies. Now you say, "Strike that out, because we just passed this one

saying if they give a reasonable explanation, they can."

Mr McKinstry: That's right. It will apply to public bodies. Public bodies would be able to be dismissed, the same as private persons or organizations, but they would have the opportunity to give some reasonable explanation.

The Chair: Anything further? Seeing none, all in favour of the amendment? Opposed? That carries.

Next we have a PC amendment.

Mr McLean: I'll withdraw that amendment to section 10 of the bill, subsection 17(40) of the Planning Act. I'd like to withdraw that.

Interjections.

Mr David Johnson: Mr Chair, there's been a little bit of confusion. I'd like to move number 63.

The Chair: All right, Mr Johnson, go ahead.

Mr David Johnson: I move that subsection 17(40) of the Planning Act, as set out in section 10 of the bill, be amended by,

(a) adding after "shall" in the third line "within 15 days of its decision"; and

(b) striking out "an opportunity" in the sixth line and substituting "15 days".

By way of explanation, this is simply a request to put time lines around a municipal board dismissal. For example, there could be a frivolous objection which the board may dismiss, or I suppose any kind of dismissal. It's simply in line with our desire to streamline and speed up the system, to direct the board to do that within 15 days after it's made its decision. Within 15 days after it's made its decision, it will notify those concerned.

That puts a time frame around that; otherwise the time frame is open-ended. It also gives those who might appeal this decision, as I understand it, 15 days to make representation on that dismissal to the board. It's putting a tight time frame so we know that events are not going to carry on for ever.

I wonder if the parliamentary assistant or the staff have any objection to that, and, if so, what it would be.

1420

Mr Hayes: Actually, at the present time the OMB is making an effort to streamline. Recently, they have been very successful. Set time frames for the OMB—we don't have the same view that we should do that. Some of the other arguments when we're talking about time frames is that you're saying the OMB can wait for 15 days to do something, and in fact it may be able to do it sooner. We feel that streamlining is already taking place and it's not necessary for this.

Mr David Johnson: I guess I just don't know how to comment on that because I really don't know what the logic is. You say you're in favour of the OMB streamlining, so you'd be very much in favour of the OMB meeting this sort of deadline yet you're unwilling to provide that direction, for some reason or another. I'm not sure exactly why. Could you try once again: Why is it? Are you afraid the OMB won't meet the 15 days and that'll cause a problem, or why particularly?

Ms Elaine Ross: One of the reasons we don't think of this as a problem is that the section requires the board

to notify the person and give them a chance to make representations before they actually make their decision, so to say they'll tell them 15 days later really doesn't work, in the light of the requirement to talk to them first.

Mr David Johnson: This, I might add—which will possibly doom it from the government side—was a suggestion from the Ontario Home Builders' Association, so they must have some reason to believe this process at present is longer than 15 days. I see some conferring going on. I don't know if that's with regard to this.

Ms Ross: It's unrelated.

Mr David Johnson: Unrelated? Can you just enlighten me? Maybe you could tell me what happens. The OMB makes a decision to dismiss a referral, and then the next step is that they must notify whoever requested that referral.

Ms Ross: Are you talking about this section? The section would require that someone would either bring a motion or the board on its own initiative would look at the situation to determine whether or not the referral should be dismissed, and before it made its decision, it would have to give the person an opportunity to make representation. That could be either at a hearing held for that purpose, or they could decide to do it through written submissions. The person would either be at the hearing or obviously would be notified as soon as the board made its decision.

Mr David Johnson: Whatever it was that was referred to the municipal board, perhaps an official plan amendment, when would it go into effect? In other words, when would it clear the Ontario Municipal Board? Would it clear it once the OMB dismissed the referral, or is there a waiting period after the decision?

Ms Ross: I'm not sure I understand your question.

Mr David Johnson: The concern here, as I understand it, is that this is slowing up the development process.

Ms Ross: No. In fact, the idea is to help streamline the development process. What it does is allow a developer to bring a motion on before the hearing date to say, "I think this referral is frivolous; the person hasn't made it in good faith," or for some other reason that it should be dismissed. They could bring their motion any time before the hearing date—even, I suppose, the morning of the hearing, but that wouldn't be streamlining; I expect they'd bring it earlier—and the board could make that determination.

Mr David Johnson: Don't get me wrong. I understand that the main intent is to streamline. But I'm looking at the steps along the way. One of the steps along the way is the Ontario Municipal Board. I'm asking you, when does an item officially clear the Ontario Municipal Board? Is it at the instant it dismisses a referral request?

Ms Ross: I'm not sure what you mean by "clear."

Mr David Johnson: Ultimately, the builder wants a building permit, and to get a building permit—

Ms Ross: They would still have to make their decision. They would consider all the planning evidence and make a decision, and that would happen at the actual hearing. This dismissal motion may or may not happen at

the hearing. It may happen any time up to the point of the hearing, and there is no time frame for the hearing. That depends on the board's schedule.

Mr David Johnson: What I'm driving at is that there are steps along the way. One of the steps is the Ontario Municipal Board, and when the Ontario Municipal Board is finished with it and has made its determination, then it has to notify either the approval authority or the local municipality, and then the local municipality presumably is satisfied that its official plan amendment is valid.

Ms Ross: That's right.

Mr David Johnson: So what I'm asking is, what signifies that the Ontario Municipal Board is finished with it and it's now back into the local municipality?

Ms Ross: The board would issue an order. That can happen any time following the hearing. Sometimes they make the decision at the moment of the hearing, and sometimes the member will go away and consider it and issue their decision and the order later.

Mr David Johnson: Could you give us some idea of what the average period of time would be from when the board makes a decision to when the board issues the order?

Mr McKinstry: I don't have any figures. I do know that the board's time frame, certainly the wait for a hearing, has diminished substantially. I believe it's something like six months now, and it used to be a year and a half. My sense is that the rest of the process would also be faster, but I don't know what the average time between making a decision and issuing an order is.

Mr David Johnson: I'm hearing from the background here that in fact that period is not faster. I hope there will be some questions on that, because I'm anxious to learn about this.

My sense is that once the board makes a dismissal, there's still a period of time involved in notifying the public, notifying whoever has ever objected etc., etc., before the order is issued, I gather. That seems to be the intent from the home builders' association anyway, the concern that there is a period of time, an open-ended period of time, that there's no clock on it. We put a clock on just about everything else—150 days, 180 days, 30 days, whatever—but there doesn't seem to be any clock on this part of the process.

That's what their concern is, and the suggestion is to put a 15-day clock on it. Hopefully, it will be better than that, but at least those who have applications in will rest assured that it can't be any longer than the 15 days. That seemed to make a whole lot of sense. That's the concern. I don't know if you have any more comments that can address that concern.

Ms Ross: I think we're talking about two different things. I'm assuming there are other referrals still outstanding and you're going to go on to a hearing. But if at that point the board dismissed the only referral, and it was a referral from a proposed decision, the board would then notify the municipality and the official plan amendment would come into effect.

You're suggesting that there should be a time period for the board to notify.

Mr David Johnson: Yes.

Ms Ross: Okay. That's in a different section.

Mr Grandmaître: Is 15 days unreasonable? Are you saying that the OMB will do it within 15 days? Is this why this amendment is not acceptable?

Mr McKinstry: I guess we're confused. There's the issue of when they dismiss. But then there's the issue, after the decision is made, if they don't dismiss and go to a hearing, of when they issue the order, which is in a different section.

We certainly put our minds around how we could set time frames in the OMB and whether it was appropriate, and we felt it was not appropriate. One of the issues, of course, is that the time frames in the Planning Act depend on getting people to the OMB. So if the OMB does not make its decision, what is the consequence? There is no further body for it to go on to.

Mr Grandmaître: But don't you think it's important, once it's at the OMB, that there should be a time frame in which the appeal or whatever should be dealt with?

Ms Ross: Perhaps I can raise your comfort level in relation to situations where the referral's been dismissed. I just point out subsection 17(42), which says, "If all the requests for referral...are dismissed or withdrawn and the time for submitting requests has expired," so the 30 days has gone by, "the proposed decision...comes into force on the day after the day the last outstanding request for referral has been dismissed or withdrawn." So the day after the day the board dismisses it, it comes into effect. The board still has to notify them, but it doesn't really make a difference to when the plan comes into effect.

1430

Mr Eddy: I want to follow up on the matter of the time frame between the completion of a hearing by the OMB and the timing of rendering the decision. There is a very great problem, and it's not being faced. Maybe it's not considered here important to set a time frame on it, but something needs to be done.

This is the problem. A member will complete a hearing, but has a schedule for several other hearings. You phone the OMB and they say it is entirely up to the member when he reports. He'll have a schedule that maybe is overfull; I don't know. But when there's absolutely no compulsion of any kind to report, it just goes on and on and on. To wait over eight months for a decision from a hearing that has been completed isn't fair. It isn't fair to complete that hearing and then go on to hear hearing after hearing after hearing and stack the decisions, and that's what happening.

We need to, at some time—now is the time—give some consideration to that. I'm not saying you tie the OMB members' hands within so many days or weeks, but surely to goodness there can be some upper time limit on giving a decision after a hearing is complete. I'm telling you, people are incensed by it and—well, naturally they're disturbed if they're incensed. It just doesn't seem proper to me, and that's what's happening.

Mr Hayes: I agree with Mr Eddy. That's why we are doing things and streamlining the process in the OMB right now. The examples you have given here today are

things we are doing away with. They're not just taking the cases now and compiling them all after they're finished and then releasing them. The system has been sped up considerably. Certainly, we know we have to do more to streamline the process, and that's what is being done now. We're gone from an average of 18 months, I think it was, down to six months now for approval, and I think that's really good.

Mr Eddy: That's for the hearings, but it's delivering the decision. The decision I'm talking about was just given two weeks ago and the hearing was completed in early January. I attended part of it, just for information, of course.

Mr Wiseman: You're a conscientious man.

Mr Eddy: Thank you.

Mr Winninger: On this same point, I had read recently, and I can't remember where, that as part of the streamlining of procedures at the OMB, it had established some kind of time limit for the rendering of decisions.

Mr Grandmaître: Three years ago.

Mr Winninger: And what is the time limit, do you know?

The Chair: Who are we asking? Are you asking staff to answer the question?

Mr Winninger: I was making a comment. If some staff know a little more about that, that's fine, but the point was that they had, as opposed to in the past, established a time limit for getting those decisions published, to address the very kind of concern that Mr Eddy just expressed. That's my point.

Mr Grandmaître: Three years ago, the OMB appeared before the agencies committee, and at that time they introduced this time frame for just about everything that came before them. Three years ago, their average was 16 months to deal with official plans and so on and so forth.

Two years later, last year, they were invited a second time to look at how successful they were with their time frame. The progress was very, very little, and the reason given to the committee at the time was that they had lost seven or eight members who weren't replaced and that's why their time frame couldn't be met.

Mr David Johnson: I think Mr Eddy has even gone beyond what was intended in this amendment, and I think he's brought a good deal of extra knowledge and clarity to this situation.

I think it would be a lot more indicative if the government, beyond taking the measures—and I agree that some measures have been taken to speed up the OMB process. But when the government is imposing time frames on the municipalities and saying the municipalities have 30 days to do this, or 15 days to do that, or 180 days to do this, why not do the same thing on the Ontario Municipal Board? Why is the Ontario Municipal Board exempt from the same sort of process, the same sort of ticking clock that is going to be imposed on the municipalities? If it's good for the goose it's good for the gander, or something like that—the old expression.

That's what I fail to understand. I think that would set

an example because, after all, the Ontario Municipal Board is a wing of the provincial government. You might say it's independent people who are appointed etc, but it still is the wing of this provincial government, and the perception is going to be that this government is not willing to impose on itself the tight time frames that it's imposing on municipalities.

Mr Hayes: First of all, to say we are not imposing things on the government is really not so, because we already have done that.

Mr David Johnson: Have you?

Mr Hayes: Yes. And we're talking about a different body, an arm's-length body, the Ontario Municipal Board.

Mr David Johnson: It's still a provincial body.

Mr Hayes: And there are times when you talk about—I wish it was that simple, that you could say, “We can do this in 15 days,” but I don't believe it is.

Mr McKinstry: If I can add to what Mr Hayes said, I agree with Mr Hayes that there is a difficulty in imposing time frames on the Ontario Municipal Board. One of them, as I said before, is that our time frames in the act depend on the ability to go to the board. The difficulty is, what consequence do you place on the board: that the decision is invalid, that the application's approved or refused? That is a bit of a difficulty.

The other thing is that the time frames we've imposed on ourselves are the same time frames for all approval authorities, so when we are approving development applications or official plans, we've got the same time frames as everybody else.

Mr David Johnson: Maybe I'll just take a last kick at it. What we're talking about here is that the time frame is totally under the control of the OMB, to start with, so there's nothing I can see in this amendment that would be outside the control of the Ontario Municipal Board.

I'm sure the Ontario Municipal Board may find it difficult in some circumstances, but municipalities may find it difficult in terms of the time frame and the clock that's been imposed on them, and yet they're subject to it. My guess is that there will be circumstances and cases when municipalities will not meet the 30 days or the 180 days or whatever, and chances are that in most of those cases that'll be accepted and people will work together.

If that can happen at the municipal level, then to show consistency and to show we're really behind this 100% at both the municipal and the provincial level in terms of the streamlining, why not do it at the Ontario Municipal Board?

If they fail in a few cases to meet the 15 days and it's done in 17 or 18 days, nobody's going to shoot them, nobody's going to put them in jail. But at least it shows an intent and a purpose to meet that tight time frame, that 15 days. I think it would be a good example.

Mr McKinstry: I guess my only response is that one of the things we heard very clearly from the development community all the way through the Sewell commission and through our own work was that they wanted a way of being sure of getting to a decision. The final decision in our system is the board, so that's all we did in our

system: We said, “After x number of days, you can get to the board.”

However, if you impose a time frame on the board, there is no further decision-maker to go on to. If the municipality doesn't make it, that means the developer may or may not want to go on, but at least they have the option of getting to another body. That was the logic of our system.

1440

The Chair: Mr Johnson, I think you've done your best, okay? Please don't try it again.

Mr Eddy: Mr Johnson may have given up, but I have not. This is kind of like allowing Ontario Hydro not to “have regard to” or “be consistent with” the planning policies of the provincial government. Why wouldn't Ontario Hydro be required to? Why wouldn't you want them to? Why wasn't it an amendment? I don't understand it.

Here we have the OMB responsible to the Minister of Municipal Affairs, and the OMB has provincial employees, who work for the Legislature, it seems to me. We've got a special-purpose body. In terms of the municipalities, that have elected members of council representing the citizens, that must follow the rules, you're quite joyfully imposing time frames, in the interest of speeding up the process, on members of councils. Provincial agencies, for the first time—that sure has been a mess, and we need to impose some time frames.

Here's the OMB, and we're speeding things along. We have a hearing, and months and months later, you phone the OMB. “May we please have the decision?” Actually, you can't say, “We want the decision.” You say, “When can we expect a decision?” The response is, “That's up to the member.” “How can we get hold of the member?” “Well, he's out on additional hearings.”

Unless we come to grips with this matter of OMB members going out on hearings, completing them and then going on indefinitely on a whole series of additional hearings and maybe not having time to give those decisions—maybe a time frame would be helpful to those members, in that they would be required to sit down and do the decisions. Maybe they want to give the decisions. Maybe they say, “I want to do this, I want to give this decision, but I don't have time because of my schedule of meetings.”

The OMB is merely an agency, an arm of the provincial Legislature, and we are in charge and we represent the people. The people want it changed and I want it changed and we should change it. It's really important to face up to this in some way. I don't mean to hamstring anybody by it.

I don't know why we're so reticent to say to the OMB, “You shall not have more than one or two public hearings after completing a hearing before delivering the decision on a previous hearing.” That seems to me to be the problem. I've handled it very gently at the OMB, very gentle with it, but saying, “Why should we sit and wait for months?”

This is a very recent case. It was over eight months—I can give you the particulars—and it needn't have been,

because it was a completed hearing. I just don't understand it. What is the matter? If the wheel is broken in this case, let's put the spoke in.

The Chair: Mr Hayes, do you have a comment?

Mr Hayes: We've already responded, Mr Chair, several times.

The Chair: All right. I think we're ready for the question. All in favour of the amendment? Opposed?

That is a tie vote, and the Chair will vote for the status quo. That's defeated.

Mr Curling: When you say the status quo, it's the government; it goes with the government all the time.

The Chair: We have a government motion.

Mr Hayes: I move that subsections 17(45) to (47) of the Planning Act, as set out in section 10 of the bill, be struck out.

What we're doing here is removing the minister's power to declare matters of provincial interest in matters that have either been referred or appealed to the Ontario Municipal Board. The government believes that retaining the declaration of provincial interest is inconsistent with the new planning system where municipalities make decisions and the OMB resolves disputes. Therefore, we are proposing to remove the right of cabinet to review and change decisions of the OMB. That's something everyone has wanted, especially Mr Grandmaitre.

Mr McLean: Then, in all fairness, I would have thought the government would have cooperated when one of the opposition members made that amendment. It would have seemed appropriate, that we're really working hard here together.

Mr Hayes: What are you talking about, Al?

Mr David Johnson: Look at 64.

Mr Hayes: A person can accomplish a lot of things if they don't mind taking the credit, Al. Thank you for your support.

Mr Eddy: Mr McLean has pointed out that both the PCs and the Liberals were about to present a similar amendment, and therefore we agree with the amendment. I've looked over the reasons the AMO set out to support this recommendation, that they submitted on behalf of the municipalities of Ontario, and I certainly agree with the number of reasons they had for submitting the recommendation. I'm sure they'll be pleased this is happening, because they had some very serious concerns with those sections.

Mr McLean: Just for clarification, I think it should be noted that this government motion is new. It was brought in after they had seen the copies of ours and the Liberals' motion, and that's why the parliamentary assistant is moving it.

Mr Hayes: It just goes to show, Mr McLean, that this government is listening to people, has listened even to the Liberals and the Conservatives. When you come up with the good ideas, we support you.

The Chair: What a government.

I think we're ready for the vote. All in favour of this amendment? Opposed? That carries.

A Liberal amendment: The same? I presume they're not moving the other two.

We're not voting on this section because we've stood a number of items down to which we have to come back.

A new section, a government motion. Mr Hayes would like to stand this matter down. Is there unanimous consent?

Mr David Johnson: What are we talking about?

Mr Hayes: This is a delegation of approval authorities to local—do you want me to read it into the record?

The Chair: Go ahead.

Mr Hayes: I move that section 10 of the bill be amended by adding the following section to the Planning Act:

"Delegations by approval authority

"17.1 (1) If a regional council or a district council is the approval authority under section 17 in respect of the approval of official plans of local municipalities, the council may by bylaw delegate all or any of the authority to approve amendments to official plans to a committee of council or to an appointed officer identified in the bylaw by name or position occupied.

"Conditions

"(2) A delegation of authority made by a council under subsection (1) may be subject to such conditions as the council by bylaw provides.

"Withdrawal of delegation

"(3) A council may by bylaw withdraw a delegation of authority made by it under subsection (1) and the withdrawal may be in respect of one or more requests for approval specified in the bylaw or any or all requests for approval in respect of which a final disposition was not made by the committee or officer before the withdrawal."

1450

The Chair: He would like unanimous consent to stand it down. Is there approval for that? Okay, that matter is stood down.

We'll go on to a Liberal motion.

Mr Curling: I ask that it be stood down too. I'll just read it in.

I move that section 10 of the bill be amended by adding the following section to the Planning Act:

"17.1 The council that is responsible for preparing an official plan may delegate its approval authority for official plans and plans of subdivision to a committee of council or a municipal official."

As the government motion was stood down, we're asking that this one also be stood down.

The Chair: Is there unanimous consent to stand this one down? Agreed.

Do you want to read the Conservative amendment into the record and then do the same?

Mr McLean: I move that section 10 of the bill be amended by adding the following section to the Planning Act:

"17.1 The council that is responsible for preparing an official plan may delegate its approval authority for

official plans and plans of subdivision and any amendments thereto to a committee of council or a municipal official."

We stand that down too.

The Chair: All in agreement? Agreed.

Moving on to a new section—

Mr David Johnson: Mr Chair, just before we do, I had a question—just a question, not an amendment—with regard to a subsection in section 10, and you went whistling by it because you were only taking the amendments. Specifically, it's to subsection (7) in section 10. Shall I deal with that now, or are you going to come back to section 10 and deal with it later, or what?

The Chair: Let me try to understand where you are. You're in section 10. What page, what clause?

Mr David Johnson: Page 11 of the bill, subsection (7). It's entitled "Mandatory official plan." It's just a question; there's no amendment.

The Chair: Okay, let's deal with that now. We have to come back to deal with other matters, but we can do this now.

Mr David Johnson: I just wanted clarification from the staff on this section entitled "Mandatory official plan" in terms of which regions, municipalities, counties, districts etc etc in the final analysis will have mandated that they must have an official plan. Will it be all municipal entities within the province of Ontario?

Mr McKinstry: No. The areas required to have a plan will be all the regions, including the district of Muskoka; the county of Oxford; all the separated municipalities—and that's most of the cities in Ontario; all the cities in territorial districts—and that's the cities in northern Ontario; no local municipalities; and counties where they're prescribed by regulation.

Mr David Johnson: I see (b) of that subsection says "a prescribed county." Who are you intending to prescribe?

Mr McKinstry: We're right now commencing a consultation with counties to work out who would be prescribed to have an official plan.

Mr David Johnson: There are some—what's the number you recognize, 817?

Mr McKinstry: Somewhere between 800 and 840.

Mr David Johnson: Want to pick a number: 820 municipal entities? What do you call them?

Mr McKinstry: Municipalities.

Mr David Johnson: So 820 municipalities. At the present time, what would be your guess at how many of them have official plans?

Mr McKinstry: I think the figure that was bandied around before was that about two thirds had an official plan.

Mr David Johnson: So somewhere around 600 would have official plans?

Mr McKinstry: Yes. More of the upper tiers and separated cities would have official plans, I would think.

Mr David Johnson: Once Bill 163 is proclaimed and comes into being, what is your guess at how many of

those 820 would have to have a mandatory official plan?

Mr McKinstry: I don't know the exact numbers, but it would be a minority. Basically, it would be the counties, regions, and big cities, if you want to think of it that way.

Mr David Johnson: There would be roughly in the vicinity of 200 municipalities today—and we won't hold you to that, but somewhere in that vicinity—that would not—

Mr McKinstry: That would not have official plans, right?

Mr David Johnson: Right. Roughly how many of them would be required to have an official plan as a result of (7)?

Mr McKinstry: I don't know the exact number, is what I was saying. It's all the regions and all the separated cities and some of the counties.

Mr David Johnson: If this were The \$64,000 Question and you were asked to guess, are we talking about a dozen, or 50, or half of them?

Mr McKinstry: I would certainly say less than 50.

Mr David Johnson: So maybe three dozen or thereabouts would be mandated by this bill to have an official plan?

Mr McKinstry: That would be a guess.

Mr David Johnson: And some of those would be—there would be a couple of regions involved?

Mr McKinstry: All the regions would be required to have official plans.

Mr David Johnson: But most of them do today?

Mr McKinstry: They all do.

Mr Wiseman: York doesn't.

Mr McKinstry: Oh, yes, York. Sorry. How could I forget?

Mr David Johnson: I think there's a couple that don't, so there would be those two regions. Who else would be required that wouldn't have it today? Some counties that don't have it today would be required?

Mr McKinstry: I can't say that, because we still want to work with the counties. Some counties have and some counties don't have, and we'll work with the counties before we prescribe them to have an official plan.

Mr David Johnson: In a situation where a county doesn't have an official plan and maybe municipalities within that county do have, would a county still be required to have an official plan?

Mr McKinstry: I think we need to do a fair amount of work with the counties to make that determination, so I can't say whether the local official plans would be sufficient. It would depend on the issues within the county.

Mr David Johnson: When you say "work," my guess is that the word "money" is going to come up pretty quickly in these discussions. Where there's no official plan and as a result of (7) some municipalities will be mandated to have an official plan, starting from scratch, it could be an expensive proposition. What sort of attitude will the minister be bringing into the discussions

when the word "money," "assistance" comes up to help municipalities that don't have an official plan create their first official plan?

Mr McKinstry: I think the parliamentary assistant has answered that quite ably: that we'll deal with requests on a case-by-case basis, obviously, and the minister will make a decision.

Mr David Johnson: So the answer is it's case-by-case basis, and who knows? Given the tight financial times and actually the loss of funding the municipalities have incurred, chances are they may not give funding.

Mr McLean: It would be more downloading.

Mr David Johnson: It says "Mandatory official plan" and I just wanted to be clear about who was going to be required to do something, which municipalities. I guess we'll have to wait until the negotiations have been completed.

Mr McKinstry: I think that's a good way of putting it: until the negotiations are complete.

1500

Mr Eddy: I have a question about excluding the separated township of Pelee, the only separated township in southern Ontario. Is that because you're treating them like other townships not in two-tier systems or something?

Mr McKinstry: I think the reason we put Pelee in that category is because it already is in a special category for some other powers; for example, consents are granted by the minister.

Mr Eddy: One-tier municipal government.

Mr McKinstry: Well, they are a separated municipality, but we have had a slightly different relationship with Pelee Island than we have had with some other municipalities.

The Chair: Seeing no further discussion there, we'll move on to section 11. Any questions or comments on section 11?

All in favour of section 11 as it stands? Opposed? That carries.

Section 12: There's a government amendment.

Mr Hayes: I move that section 19.1 of the Planning Act, as set out in section 12 of the bill, be amended by striking out "34 to 39, 45 and 63" in the first line and substituting "34 to 39 and 45."

This amendment deletes a cross-reference to section 63, as it is incorrect. This is a technical housekeeping amendment to the bill.

Mr McLean: Let's define this. This is talking about the unorganized territories, am I not right?

The Chair: Yes.

Mr McLean: It says "...within the planning area consisting of territory without municipal organization and the planning board shall be deemed to be a council of a local municipality and the secretary-treasurer of the planning board shall be deemed to be the clerk of the municipality for those purposes." Are you telling me that the unorganized territories are going to be deemed to be part of a municipal organization?

Ms Ross: This section simply gives the planning boards the ability to pass zoning bylaws in the unorganized.

Mr McLean: What planning boards? You have an unorganized territory and you'll have a planning director who kind of runs that whole area. Is there a planning board assigned to an unorganized territory?

Mr McKinstry: If I can clarify that, in the territorial districts of Ontario the minister may establish planning boards, and a number of planning boards have been established. They can either be entirely made up of unorganized areas or unorganized townships, or they can be a mixture of organized and unorganized. For example, Manitoulin Island is a planning board, and the whole island is a planning board, so it includes the municipalities and the unorganized areas.

The reason we did this was because traditionally the municipalities and planning boards have passed their zoning bylaws and the unorganized areas have been covered by ministers' zoning orders, and the planning board itself has an official plan that covers both. So what we wanted to do here was empower the planning boards to pass zoning bylaws for the unorganized parts in order to give some more local control of zoning.

Mr McLean: An example would be Kenora, with three municipalities surrounding it, and other than that it's all unorganized territory. So what you're saying is that the planning boards of those communities, as one, would take in all the unorganized territories outside of its jurisdiction.

Mr McKinstry: It could do. I'm not sure of the situation in Kenora. Planning boards are very specific entities where there would be representation from each of the unorganized and the municipalities. But I'm not sure Kenora has one. For example, Sault North: There is a planning board that is entirely made up of unorganized townships and it stretches from just north of Sault Ste Marie all the way up the side of Lake Superior, so that's all unorganized.

Mr McLean: How could you have a municipal representative from an unorganized territory sit on the planning board when it's not an organized municipality to start with? How could you have one of them when he's not already there in the first place?

Mr McKinstry: The minister appoints representatives from residents of the unorganized areas to sit on the planning board because there's no municipal entity. We've always had a challenge in the unorganized areas because there's a fairly strong resistance in unorganized areas to municipal organization, but we want to be able to get some local planning controls to those areas. This is a way of doing that.

Mr McLean: I do know that unorganized territories are looking for some planning. They want to develop cottage lots and they want to do some development, but they can't do it as it is. I'm wondering how this is going to fit in. I was hoping that a municipality that is already under the planning order could then take in the umbrella of an unorganized territory to be part of that for planning purposes. Is that what this is trying to do?

Mr McKinsty: It is and it isn't. Municipalities do have the ability, I believe—I'm not very familiar with this legislation—to request annexations, but this is not doing that. This is the way of the municipality and the planning board and the unorganized townships planning together, that they sit together on a board, municipal reps and unorganized reps; then they can do their planning, they can have an official plan, they can have land severance powers and could delegate subdivision powers to them. They would be able to exercise some powers over the unorganized, and the municipalities would have some influence on that, because they would all sit on the planning board together.

Mr McLean: Did your ministry staff have some discussions and correspondence with NOMA to deal with this issue?

Mr McKinsty: Yes. We have had ongoing discussions with NOMA.

The Chair: All in favour of this amendment? Opposed? That carries.

All in favour of section 12, as amended? Opposed? That carries.

Section 13: Any questions or comments on that section?

Mr McLean: This says, "Subsection 21(2) of the act is repealed." What is subsection 21(2) of the act?

Ms Ross: Subsection 21(2) is a power that the minister has to waive his or her right to approve official plans. I don't know that the power has ever been used. It was removed because the referral process no longer exists. We completely rewrote the official plan process and they now make a proposed decision which is referred, which is a little different than the former process.

Mr Wiseman: Where are we at?

The Chair: Section 13. Mr McLean is asking what section 21(2) of the existing act says.

Mr McLean: You've got a different act from me. I must not have the updated act.

The Chair: That's the act. This is the bill that's before us.

Any further questions? All in favour of section 13? Opposed? That carries.

Section 14: We have a government amendment.

1510

Mr Hayes: I move that section 22 of the Planning Act, as set out in section 14 of the bill, be struck out and the following substituted:

"Request to council

"22(1) If a person or public body requests a council to initiate an amendment to an official plan, the council shall within 120 days after the request is received hold a public meeting under subsection 17(9) or comply with the alternative measures set out in the official plan.

"Request to a planning board

"(2) If a person or public body requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal

organization, the planning board or council of the municipality to which the proposed amendment applies shall within 120 days after the request is received hold a public meeting under subsection 17(9) or comply with the alternative measures set out in the official plan.

"Information etc to be provided

"(3) A council or a planning board may pass bylaws requiring that a person or public body that submits a requests under subsections (1) or (2) shall provide the prescribed information and material and such other information or material as the council or planning board may require, including any fee.

"Refusal

"(4) The council or planning board may refuse to accept or further consider the proposed official plan amendment until the prescribed information and material required by bylaw under subsection (3) are received and the periods referred to in subsections (5) to (10) do not begin until all of the prescribed information and material and fee are received.

"Failure to give notice

"(5) If a request is made under subsection (1) and the council fails to give notice of a public meeting under subsection (1), if required, within 90 days after the request is received, the person or public body that made the request may request council to forward the amendment to the approval authority for approval.

"Same, planning board

"(6) If a request is made under subsection (2) and the planning board fails to give notice of a public meeting under subsection (2), if required, within 90 days after the request is received, the person or public body that made the request may request the planning board to forward the amendment to the approval authority for approval.

"Where council fails to act

"(7) If a planning board recommends a proposed amendment for adoption to a council or to two or more councils pursuant to a request made under subsection (2) and the council or a majority of the council fails to give notice of a public meeting under subsection (2), if required, within 90 days after the request is received for the planning board, the person or public body that made the request may request the planning board to forward the amendment to the approval authority for approval.

"Refusal to adopt

"(8) If a request is made under subsection (1) and the council fails or refuses to adopt the proposed amendment within 180 days after the request is received, the person or public body that made the request council to forward the amendment to the approval authority for approval.

"Same, planning board

"(9) If a request is made under subsection (2) and the planning board fails or refuses to adopt the proposed amendment or to recommend the amendment for adoption within 180 days after the request is received, the person or public body that made the request may request the planning board to forward the amendment to the approval authority for approval.

"Where council fails to act

"(10) If a planning board recommends a proposed amendment for adoption to a council or to two or more councils pursuant to a request made under subsection (2) and the council or a majority of the council fails or refuses to adopt the amendment within 180 days after the request is received by the planning board, the person or public body that made the request may request the planning board to forward the amendment to the approval authority for approval.

"Information to be forwarded

"(11) If a person or public body submits a request to the council or planning board under subsection (5), (6), (7), (8), (9) or (10), the council or the planning board shall cause to be compiled and forwarded to the approval authority, not later than 15 days after the request is received, a record which shall include the prescribed information and material and such other information or material as the approval authority may require.

"Same

"(12) A person or public body that submits a request under subsection (5), (6), (7), (8), (9) or (10) shall provide to the approval authority the prescribed information and material and such other information or material as the approval authority may require, including any fee.

"Refusal to consider

"(13) The approval authority may refuse to accept or further consider the proposed official plan amendment until the prescribed information and material under subsection (12) and the required fee are received and the time period referred to in subsection 17(34) does not begin until all the prescribed information and material and the fee are received.

"Withdrawal of requests

"(14) If all the requests under subsection (5), (6), (7), (8), (9) or (10) made in respect of all or part of the proposed amendment are withdrawn and the council or the planning board failed to adopt the proposed amendment, the approval authority shall notify the council or the planning board and the council or the planning board may proceed to adopt all or part of the amendment, as the case may be.

"Same

"(15) If all the requests under subsection (5), (6), (7), (8), (9) or (10) made in respect of all or part of the proposed amendment are withdrawn and the council or the planning board refuse to adopt the proposed amendment, the decision of the council or the planning board is final.

"Application

"(16) Subsections 17(20) to (47) apply with necessary modifications to a proposed official plan amendment under this section."

Ms Haeck: I want to quickly ask a couple of things, more grammatical than substantive questions about the bill. At the bottom of the first page, the last line says "fee are received." I would think that should say "fees are received." Let's see; there was another instance. On page 3, "Refusal to consider," subsection (13), the fourth line should be "required fee is received" and the last line of

the same section should be "and material and the fees are received." I think that probably will deal with tense agreements.

Ms Lucinda Mifsud: There's only one fee in each case. It's on a case-by-case basis.

Ms Haeck: Then I would say the verb needs to be changed.

Ms Mifsud: No. It's the information and material and the fee. Three things are received.

Ms Haeck: Oh, I see. I'm sorry.

Mr David Johnson: Everybody's an expert.

Ms Haeck: That's fine. It just didn't seem to jibe when it was read. My apologies.

Interjections.

Mr Hayes: A little order here, please. Let's go.

The Chair: What's going on here?

Moving on, perhaps an explanation before we continue.

Mr McKinstry: If I can give a brief explanation, this is a lot simpler than it sounds. Section 22 of the act is for situations where it is not the municipality wishing to amend their official plan but it is a private individual applying to amend their official plan. Section 22 provides a way of that private individual moving through the system if the municipality does not want to pass the amendment. What Bill 163 says is that if the municipality has not dealt with the amendment within 180 days, the applicant can request that it go on to the approval authority for a decision.

One of the concerns expressed by the development industry was that that means they always have to wait 180 days if the approval authority is not interested in pursuing the application. Basically, what we've done is we've said that if within 90 days no notice of the public meeting is given, there's a right to go on to the approval authority. Therefore, there's a maximum of 90 days before it can move on if there's no action by the municipality. If the municipality gives notice of the public meeting, has a public meeting and then takes no further action, then there's the 180-day mark in which it can go on to the approval authority. We basically added in there one more time frame.

Mr David Johnson: Actually, the 120 days is the same as our amendment, so I guess great minds think alike in that regard.

At the end of subsection 22(1) it says "...after the request is received hold a public meeting under subsection 17(9) or comply with the alternative measures set out in the official plan." I just can't recall what is meant by that last phrase, "with the alternative measures set out in the official plan."

Mr McKinstry: The Planning Act has a procedure whereby municipalities can set out alternative measures for notification of public meetings.

Mr David Johnson: So what does that mean here? You have 120 days to hold the public hearing for this application, or you have to satisfy whatever other measures the municipality has set out in its official plan for—you say notification?

Mr McKinstry: One of the things that has happened in the past is official plans have been approved which authorize municipalities to give slightly less notice than 30 days. For example, some official plans may have said they could give notice of 15 days. What that would mean is that I think the 90 days would still apply, but then the public meeting would occur 15 days after that 90 days.

Mr David Johnson: So what you mean to say here is that if it's a shorter period of time, the 120 days is no longer applicable, necessarily. Is that what you're saying, that if they have a 15-day notice period, it would be—90 plus 15—105 days?

Mr McKinstry: My understanding is that the 120 days would still apply. You would still have the right to go to 120 days to have the public meeting before you could send it on.

Mr David Johnson: Then what does it mean? You either have to have a meeting within 120 days or you have to comply with your alternative measures. You've got a choice, you can do one or the other.

Mr McKinstry: That's right.

Mr David Johnson: Give me an example of what the other would be so that you don't have to comply with the 120 days.

1520

Mr McKinstry: The other would be if the official plan contained a provision which said you didn't have to have a public meeting. Now, I'm not aware of an official plan that contains such a provision.

Mr David Johnson: That would be most—

Mr McKinstry: Unusual, yes.

Mr David Johnson: So is this a catchall phrase that doesn't mean anything?

Mr McKinstry: Those are the only two things, where one wasn't required or where there's less time.

Mr David Johnson: In the case of less time, I don't see how it's applicable—

Mr McKinstry: I think you're right. I don't think it would apply, because I think you've still got the 90 and 120.

Mr David Johnson: You've still got the 120 days. Then it would only apply, in your view, if a municipality had an alternative measure where they didn't have to have a public hearing for an official plan amendment, which would seem kind of remote, so I'm starting to wonder why on earth this phrase is in there; it doesn't seem to make any sense.

Mr McKinstry: Because you have to build every situation in legislation, just in case something happens that's not covered by the legislation.

Mr David Johnson: Even if we can't think of any possible scenario where one would exist at the present time. Okay.

Going to the next page, at the top of page 2 it says "the person or public body that made the request." First of all, looking at the phraseology "person or public body," I thought you indicated at the outset that this was for an individual making an application for a proposal. But presumably when you include "public body" it could

be a government making a proposal for an official plan amendment. Is that what you're saying?

Mr McKinstry: It's entirely possible, yes.

Mr David Johnson: The province of Ontario may want to put an office building in Durham and they need an official plan amendment to do it.

Mr McKinstry: That's right. Now, the crown is not bound by the Planning Act, but usually the crown will follow the appropriate procedures.

Mr David Johnson: Okay. It was really the next part I was most interested in: "the person or public body that made the request may request council to forward the amendment to the approval authority for approval." Just by the way you've worded it, the choice is with the applicant whether to request or not. But it doesn't appear anywhere in here that I can see—you can maybe point me to it. By the way it's phrased, council has the choice to obey or disobey the request; it's merely a request. Is there some other place—

Mr McKinstry: There's another provision that says that when the request is made, they have I think 15 days. Just let me find it. It's in subsection (11), which is the third page of this.

Mr David Johnson: Subsection (11). So that's what all that means. It's hard to read through three pages and make everything jibe.

Mr McKinstry: If the person requests to be sent on, then you refer over to subsection (11), which says that if that request is made, it shall be sent on within 15 days.

Mr David Johnson: So if you put those two subsections together, the applicant has the choice to request council to send it along, and then the council, according to subsection (11), must send it along. It might've been simpler if you put those two together.

Mr McKinstry: This is an issue of legislative drafting. I wouldn't touch it.

Mr David Johnson: If a municipality is proceeding in good faith—we ran into this term "good faith" earlier this week—but misses by a day or two, for some reason—maybe the printing presses broke down, or heaven only knows—this does not give any leeway. If they would've made it in 91 days but just couldn't make 90, for example, of course the proponent could weigh that and fail to appeal to the approval authority, but technically the proponent could proceed on that basis and require the local municipality to send it to the approval authority.

Mr McKinstry: Technically, if the time frame's not met, yes, the proponent could send it on. But it seems to make good sense to me that if progress has been made, why would you want to send it on to another approval authority?

One comment I'd have is that when you put in time frames, you've got time frames. You either have them or you don't have them. You've got to make a choice, I guess.

Mr David Johnson: That's the real world; it's tough. But one good reason would be that the proponent would think that the audience at the approval authority would be much better than at the local council, which, I would

submit, would not be unusual. It's quite conceivable that that could happen. The regional government might take a more proactive view towards development than a local council, where the development might disrupt a local neighbourhood, for example, but in a regional context may not have much bearing.

Mr McKinstry: That, in my view, would be a different issue, where in fact the local municipality does not want this development to happen. The current Planning Act actually has similar provisions: We've always recognized that where the municipality is not acting there should be a way of a second look at it, so we're saying the approval authority. But my experience is that approval authorities and the OMB do take local municipalities' views very seriously.

Mr David Johnson: We haven't dealt very much with an approval authority, at least not in Metro we haven't. In Metro that system really hasn't been set up.

Mr McKinstry: The approval authority in Metro is the province, depending; if it's a subdivision, it's Metro.

Mr David Johnson: If Metro was set up as the approval authority, it would be interesting to see if there'd be this similar reaction. At any rate, we won't know that.

That probably addresses my other question as well, but it's hard to phrase the questions when you're reading so quickly. I'm looking at (14). It says, "If all the requests under subsection (5), (6), (7), (8), (9) or (10) made in respect of all or part of the proposed amendment are withdrawn...." What's that mean, if all the requests are withdrawn?

Mr McKinstry: What we're saying here is that the person who wanted it sent on has changed their mind. It's a way to deal with that change of mind.

Mr David Johnson: So one of the dates was missed and the proponent said, "Send it along to the approval authority," but then the proponent changed his or her mind. Is that what you're saying?

Mr McKinstry: That's right, and then the municipality could proceed to deal with it.

Mr David Johnson: "...all or part of the proposed amendment are withdrawn and the council or the planning board failed to adopt the proposed amendment, the approval authority shall notify the council...." I don't understand what that means, if that's what you're saying. If the proponent has withdrawn his or her request that the approval authority deal with it, presumably it's back at the local council again.

Ms Ross: Perhaps I can address that one for you. Two different situations can occur that would allow a proponent to request something to be sent on to the approval authority: a situation where council fails to do anything and a situation where council refuses.

Mr David Johnson: What's the difference?

Ms Ross: The difference is that in one case you've actually made a decision and in the other case you haven't. In one case you've said no, and in the other case you hadn't decided what you wanted to do yet. We're dealing in (14) with the situation where council hadn't made a decision yet.

Mr David Johnson: So that fails?

Ms Ross: Right.

Mr David Johnson: So council didn't make a decision within the 90 days, perhaps, and the proponent then sent it along to the approval authority. Then what happens?

Ms Ross: And then, if they withdrew their request—maybe they got talking to the council of the municipality and thought they could make an arrangement, so they withdrew their request. At that point in time, the approval authority will tell the council, the council that had failed to adopt the original amendment that was requested, and then council can proceed to deal with it.

Mr David Johnson: All right. It's just funny wording again, when you said "and the council or the planning board failed to adopt." What you really mean is that the approval authority will notify the council or planning board which failed to adopt.

Ms Ross: That's right.

Mr David Johnson: So that's what all that means. Those are my questions.

The Chair: Anything further? All in favour of the amendment? Opposed? That carries.

We have a PC amendment.

Mr McLean: I move that subsection 22(1) of the Planning Act, as set out in section 14 of the bill, be amended by striking out "180" and substituting "120".

We've already passed it in the one we just carried. Therefore, we'll just withdraw that. It's already been passed.

Mr David Johnson: You're stealing all our good ideas.

Mr McLean: Am I not correct in saying it passed in 22(1)?

The Chair: Yes. There's a Liberal amendment next.
1530

Mr Grandmaître: I move that section 22 of the Planning Act, as set out in section 14 of the Bill, be amended by adding the following subsection:

"(3.1) If no request for referral has been made to the approval authority within 30 days of council having given notice of its decision, the amendment shall be deemed to have come into force on the day it was passed by council."

I guess it goes back to a previous question that was asked of staff, to put a time limit on just about everything. In other words, "If no request for referral has been made to the approval authority within 30 days"—this is why it's in addition to subsection (3)—"to the approval authority the amendment shall be deemed to have come into force on the day it was passed by council." Again it's to meet the time frame.

Ms Ross: I'm not really sure how this one would work, because the only situation in which a request for referral would be made is if council had either refused them or not made a decision. So when we say the amendment would be deemed to come into force, there wouldn't actually have been a decision by council to

come in, unless we're saying the amendment would come into force—

Mr Grandmaître: Yes, "if no request."

Ms Ross: Right, but then it says "the amendment shall be deemed to have come into force on the day it was passed by council," but it was never passed by council because it refused it. That's how it got to section 22, that's how it got referred to the approval authority.

Mr Grandmaître: Okay. I'll withdraw this.

Mr David Johnson: I have a question. It's "no request for referral...to the approval authority," but if the council approved the application, it could still be objected to by somebody who lived in the neighbouring community. Is that what this is referring to?

Mr McKinstry: This is (3.1), so it follows subsection (3). Subsection (3) talks of the fact that if council refuses or fails within 180 days, it can go on to the board. So we're not clear about how this "no request for referral...within 30 days" comes into force, because it doesn't seem as if there's anything to come into force.

Mr David Johnson: First of all, the amendment was made before you—

The Chair: Mr Johnson, if I can, it's been withdrawn. You still want to speak to an issue that has been taken away?

Mr David Johnson: Yes.

The Chair: I'm suggesting that it is withdrawn, that there is nothing before us.

Mr David Johnson: Then we have our amendment, so let's move that forward.

The Chair: Let's move on to the PC amendment. It is identical, so you can move it and you can ask the same questions, I guess.

Mr McLean: I move that section 22 of the Planning Act, as set out in section 14 of the bill, be amended by adding the following subsection:

"(3.1) If no request for referral has been made to the approval authority within 30 days of council having given notice of its decision, the amendment shall be deemed to have come into force on the day it was passed by council."

Mr David Johnson: I see what you mean, that subsection (3) as written deals with council failing or refusing to adopt. But does it necessarily follow that subsection (3.1) has to have precisely the same meaning? It would seem to me that what could happen is that the council could approve of the application but some third party could object to it and ask for a referral to the approval authority.

Is that a possibility? Is that what's intended here? But if there were no such request, would this clause not come into effect at that point?

Ms Ross: I guess the problem we've got is that section 22 only applies in situations where council either fails or refuses to do something with the person's amendment. So if you weren't in section 22, you'd be back at 17, and it would be that a council adopted an official plan amendment and the process in section 17 would apply.

Mr David Johnson: The verbiage in section 22 deals totally, with the exception of this possible amendment, with those situations, but does that necessarily mean you couldn't put a clause in there that was sort of inconsistent with the rest of the direction of the clause?

Ms Ross: I think it would be very confusing to the public.

Mr David Johnson: I agree with you on that.

The Chair: We have another amendment by the Progressive Conservatives.

Mr McLean: I move that subsection 22(5) and (6) of the Planning Act, as set out in section 14 of the bill, be struck out.

The Chair: Do you want to speak to that?

Mr McLean: I want them struck out. Mr Johnson will speak to it.

The Chair: Mr Johnson, you're speaking to that? You don't have to. It's quite clear. Mr Hayes wants to react to that.

Mr Hayes: Now it's our turn. Can you explain to this committee what you are doing here? It does sound very confusing to me.

Mr McLean: We think subsections (5) and (6) should be struck out, and I want to know from you why they shouldn't be.

Mr Hayes: I'm not proposing that it be one way or the other. I want a clarification about exactly what you're seeing here. I don't know, maybe we'll agree.

The Chair: He just wants it struck out, that's it. I think he was quite clear in that regard, Mr Hayes. We're ready for the vote, perhaps.

Mr Hayes: We oppose it because really it's not clear.

The Chair: All in favour of the motion? Opposed? That's defeated.

All in favour of section 14, as amended. Opposed? That carries.

There's a new section, 14.1, a government motion.

Mr Hayes: I move that the bill be amended by adding the following section:

"14.1(1) Subsection 23(5) of the act is amended by striking out 'but the decision is not final and binding unless the Lieutenant Governor in Council has confirmed it' at the end.

"(2) Subsection 23(6) of the act is repealed."

Mr Curling: What does that mean?

Mr Hayes: That's the one dealing with the provincial interest. As you know, we've taken steps that they won't be able to—

Mr McLean: Which number is this? Subsections 23(5) and (6)? I can't find it in my amendments.

Mr McKinstry: It's in the Planning Act, not in Bill 163. This was not part of Bill 163; you have to refer to the Planning Act itself.

The Chair: Do you want to see that section of the act?

Mr McLean: How come it's not in here if we're amending it?

The Chair: It makes reference to the act. Mr McKinstry was saying that.

1540

Mr McKinstry: Maybe, Mr Chair, I can read the act. Subsection 23(5) of the act says:

"The municipal board, after the conclusion of the hearing, shall make a decision as to whether the proposed amendment, or an alternative form of amendment, should be made"—and here's the stuff that's been struck out—"but the decision is not final and binding unless the Lieutenant Governor in Council has confirmed it." We've struck out "but the decision is not final and binding unless the Lieutenant Governor in Council has confirmed it."

We struck out (6) as well, and (6) is:

"The Lieutenant Governor in Council may confirm, vary or rescind the decision of the municipal board made under subsection (5) and in doing so may direct the minister to amend the plan in such manner as the Lieutenant Governor in Council may determine."

Mr David Johnson: So I presume this is a rubber-stamp at the end that took some time.

Mr McKinstry: No. This in fact was the declaration of provincial interest, where if it declared provincial interest on matters before the board, cabinet could decide whether it wanted to vary or rescind the board's decision. This is not housekeeping; this is actually a fairly major amendment.

Mr Grandmaitre: It doesn't coincide with subsection (47), "Power of L.G. in C." on page 19.

Mr McKinstry: Yes, I think it would. The way the Planning Act worked, each of the Planning Act applications in the current Planning Act had a provision whereby cabinet—the minister, I should say—could declare a provincial interest on a subdivision or a zoning order or whatever. If the minister declared a provincial interest, it came back to cabinet for a final decision, and that is being dropped.

Mr Curling: Do you mean to say you've given the minister more power now because it doesn't have to go through cabinet? If you want to get the Lieutenant Governor's approval, it has to go back to cabinet and it usually gets moving up the line. You're saying it won't have that any more; you're dropping that.

Mr McKinstry: Sorry, I'm obviously not making myself clear. The current act says that where the minister declares a provincial interest, the board cannot make a final decision; it must go back to cabinet for a final decision. With this change, it means that the board makes a final decision and the minister has no power to bring the board's decision back to cabinet.

Mr Curling: So it's the other way from how I was thinking about it.

Mr McKinstry: That's right. What the government is saying here is that the provincial interest is inconsistent with local empowerment and that in fact the system should have its decisions made in accordance with the approval authority and the board.

Mr Curling: I may ask you to repeat that, but just

bear with me a bit. The minister indicates he has provincial interest in this matter, so it goes back to the board.

Mr McKinstry: The minister can no longer do that after this amendment.

Mr Curling: He can no longer say he has provincial interest in this.

Mr McKinstry: That's right. This was a request of AMO's.

Mr Hayes: Do you like it?

Mr Curling: I want to say I like it, but it's not helping me just to understand it. It's such a reverse that I almost can't believe it, but if you are saying so—

The Chair: All right. All in favour of the amendment? Opposed? That carries.

Section 15: Any questions or comments on section 15?

Mr Hayes: Did we vote on 14?

The Chair: Yes, we did. That was it.

Are there any questions or comments on section 15? There are no amendments, obviously.

All in favour of section 15? Opposed? That carries.

Section 16: All in favour of section 16? Opposed? That carries.

Section 17: A government amendment.

Mr Hayes: I move that section 17 of the bill be renumbered as subsection 17(2) and the following subsections added:

"17(1) Subsection 26(1) of the act is amended by adding at the end 'and determining the need to amend the plan to make it consistent with the policy statements issued under subsection 3(1).'"

"(3) Section 26 of the act is amended by adding the following subsection:

"Consistency with policy statements

"(4) If the council of the municipality determines that the official plan is not consistent with the policy statements, the council shall adopt any amendment to the plan necessary to make it consistent with the policy statements and submit it to the approval authority for approval."

Interjection: Good amendment.

Mr Hayes: I think it's very good.

Mr McLean: Can I have a clarification? What happens if the ministry determines that the official plan is not consistent with the policy statements? You say in here "if...the municipality determines that the official plan is not consistent." What happens if the province says the plan is not consistent?

Ms Ross: The minister has the power in section 23 of the Planning Act to request the municipality to amend its official plan to make it consistent with the policy statements.

Mr McLean: Why do we need this amendment? If the council knows it hasn't met the policy statements, it's automatically going to bring in some amendments to make it consistent with the policy statements, I would think.

Mr McKinstry: We had a provision in the bill that said municipalities must review their plans every five

years and, given the fact that this is a locally driven system and that there will be no provincial interest, there did seem a need to say that official plans be brought into consistency with policy statements and that an obligation should be placed on municipalities to do so, without the minister using the provisions under section 23.

Mr McLean: Does anybody know how often the government is going to review its policy statements? Is it going to do them every year, six months, every three or five years?

Mr McKinstry: We already passed a motion to say it will be every five years.

Mr McLean: But it could be less than five years, right?

Mr McKinstry: Five years is the maximum. It could be less, but my experience of policy statements is that they're difficult to bring out.

Mr McLean: But cabinet could determine that the wetland guidelines have not been working properly so it could make an amendment to them by regulation, and the municipality would then have to coincide with the statement or the regulation.

Mr McKinstry: If the government wished to change the wetland policy statement, it would have to go through the consultation processes—the act says, “The minister shall consult”—and then it could change it. But the municipality only needs to bring its plan into consistency with the policy statements at the time of its five-year review.

Mr David Johnson: I do find this curious, and I guess it's building on what Mr McLean is asking. The municipalities are under a whole plethora of directions, and I would kind of doubt that with each one of the provincial directives to municipalities there's a clause somewhere in legislation that says if they're “disobeying” the rules—which I think was the phrase used the other day—they must take action to obey. It seems to me it is somewhat unique to put this phraseology in here.

Can you give us other examples in planning, for example, where municipalities would be directed to obey if they're not obeying? Normally, we would just say, “Here's the law,” and it goes without saying, as you said the other day. I guess I'm speaking through the Chair to the parliamentary assistant, to the staff. The staff the other day said they just anticipated that the municipalities would obey the law, but now they've gone a step further and have said, “If you're not obeying the law, you have to obey the law.” I find it rather strange.

1550

Mr McKinstry: I'm not clear what the question is. All we're saying is that there is a need for the municipalities to not only review their plans, which is what the existing Planning Act says, but when they review them they're required to bring them into consistency with the policy statements.

Mr David Johnson: In Bill 120, for example, which isn't your bill, at the end of it do we put in somewhere, “If municipalities still have R1 zoning, you must review your plans and not have R1 zoning again”? I don't know how to make it more clear. You lay down the law in the

bill, which you've done: The bill says municipalities “shall be consistent with” the policies. Not content with that, we come back again with the second phrase—it seems like a second swat at the municipalities—saying, “Notwithstanding that we told you earlier in the bill that you shall be consistent with the policies, for a second time we're telling you that if you find you're not being consistent, you must take action to be consistent.” Why? What's the point? I don't understand.

Mr Hayes: What it's really saying is that if the municipality determines that its official plan is not consistent with the policy statements, it shall make the necessary amendments to its official plan.

Mr David Johnson: Well, of course. That goes without saying. Why would you put that in the bill?

Mr Hayes: But then the purpose of this is to bring the official plans in line with the policy statements. There's no guessing about it. We're saying, “These are the policy statements, and you have to be consistent with them.”

Mr David Johnson: You're telling me that without this clause, if we didn't have this clause in, municipalities that had official plans that were inconsistent with the policy statements would not have been compelled to bring their official plans into consistency? I think that's rather bizarre, to tell you the truth.

Mr Hayes: Does this cause a problem for you?

Mr Curling: Following the direction of what Mr Johnson is saying to you, it says, “If the council of the municipality determines that the official plan is not consistent with the policy statements, the council shall adopt any amendment to the plan necessary to make it consistent.” In other words, they must make an amendment so that it be consistent. If they determine that the plan is not consistent, have said, “It's not consistent,” the council then says, “Go ahead and adopt any amendments to make it consistent.” That's all we dealt with earlier on. That's what the whole thing is all about.

Mr David Johnson: That's right. That's what the whole thing is all about. I don't understand.

Mr Curling: Yes, to bring it into conformity and consistency. We're just overdoing this thing so much. We're climbing over rules upon rules. You're saying that things must be consistent or it won't be approved, and now you're saying if they find out their plan is not consistent with the policy statement, they must go ahead now and adopt amendments to have the plan consistent with the policy statement. It seems unnecessary to me.

Mr McKinstry: First of all, I should point out that the current Planning Act says the municipalities must review their plans every five years. We've simply added to that to say that when they review them, they must bring them into consistency. Our view is that in fact this is of benefit to the development industry, because it means that rather than having to go back and forth between the policy statements and the official plan, if the official plan is consistent, that means the developer looking to develop can look at the official plan and know with some confidence what's permitted. We felt quite strongly that the municipalities should bring their plans

into consistency. The plans are, after all, the public documents at the municipalities.

Mr Curling: You're testing my memory now, because I know previously we dealt with that, saying that all plans must be consistent with the policies. We dealt with that earlier on.

Mr Grandmaître: Yes, section 6 of the bill, on page 5, subsection 3(5), says:

"Decisions consistent with policy statements

"(5) A decision of the council of a municipality, local board, planning board, the minister and the municipal board under this act and such decisions under any other act as may be prescribed shall be consistent with policy statements issued under subsection (1)."

Aren't we overdoing it by repeating ourselves?

Mr McKinstry: That is true. What we're saying is that where the municipality makes a decision—so if they amend their plan or they approve a subdivision—it must be consistent. But it is possible that at their five-year review, they don't amend their plan, so then they wouldn't have to be consistent.

What I was saying before is that we want to make sure that the local planning document reflects accurately the planning environment that the development industry must follow.

Mr Curling: The debate we had, when we were saying it must be consistent with the policy—we had a long debate about that, and it said they have to be consistent with the policy. That debate was also attached with "having regard to" and "consistent with" the policy.

I hear what you're saying. You're saying they will discover that they're not consistent. As it says, "If the council of the municipality determines that the official plan is not consistent with the policy statements," it must then proceed to adopt a process to amend that, to bring it into conformity.

We argued earlier on that to do that would cost a lot of money, and who would pay for that? Remember that discussion we had? It is because we realize that they must do that, that part of the legislation was telling them they must bring it into conformity. I asked, who's going to pay for this? My dear parliamentary assistant would not tell me if he would be giving some funds so they could be—

Mr Hayes: I can't give you any funds.

Mr Curling: The municipality or the council. That debate went on. Now I'm hearing again, "We're going to put another piece in here to tell you that you must make amendments to conform with it." I think it's overkill. I think it's unnecessary to have that now. Impress upon me why it is so important to have it again, to just stick it to them one more time.

Mr McKinstry: What we've done is we've established a standard at the beginning of the act that says decisions "must be consistent with," and now we're trying to make sure that this gets followed through into the other processes through the act. It's a simple consequence of saying, "You shall be consistent with."

As I said before, it is important that the public have

the information before them in the official plan, that the official plan not contain outdated policies so that the development industry doesn't know what the rules are. That's one of the main parts of this planning reform package, that the development industry knows what the rules are.

Mr Curling: But you did tell them that they'd have five years to bring it into conformity.

Mr McKinstry: Consistency.

Mr Curling: Consistency. They don't like the word "conform"; it's to be consistent. "Conform" may sound a bit too rigid.

They have five years in which to do so. They will have to do it; in other words, you've got to bring it into consistency within five years. Now we're saying: "We're going to tell you again. We're going to turn the dagger a little more. Down the road, you have to do that and submit it to the approval authority for approval." But I thought that's the way they had to do it previously. It was all stated out previously, and now I'm asking the same question again. I just wonder why.

Mr Grandmaître: Why we have to repeat it.

Mr Curling: We're repeating it. You're saying you want to be consistent down the road all the way, is that it?

The Chair: You're going to try again?

Mr McKinstry: What we're saying is that there needs to be some obligation on a municipality to actually follow through with the actions of the Planning Act. The current Planning Act says you have to do a five-year review and the bill says you have to "be consistent with." So what we're saying is that the logical outcome of that is that at the five-year review, which is the appropriate time, the right time, to do a comprehensive review, you bring it into consistency. That seems to us a little better than piecemeal bits and pieces being brought into consistency through the amendment process. In other words, the public actually sees this document and it's got all this stuff in it.

1600

Mr Curling: The difficulty I'm having is because I can't find it in the bill. You say it's in the Planning Act, but I don't have the Planning Act before me. You say, "Somewhere in that little part that you don't have before you"—I'm just trying to tell the parliamentary assistant the difficulty I have with lack of staff and all that, you know. That is why I was trying to find out where that little niche was that you're putting it into, and now you're presenting it to me as part of the Planning Act where you're putting it in. Is that why I'm not getting it? I was looking in here and saying that all I had before me was all of that.

I would think, as a matter of procedure, Mr Chairman, that what we should be doing, really, as we keep on rewriting this legislation all the time as we go along each day and amendments are coming in every second—

Interjection: Here comes another one. Duck.

Mr Curling: That is why I was finding out where it is. We were consistent along here, and I gather that

there's a little part of the Planning Act that we're going to say we'll fill in a little gap. Is that why I'm not getting it? I've lived with this for three or four weeks, and the poor people outside, who don't have even the staff we have to understand this—boy, lawyers are going to have a field day.

Mr Hayes: That's why we're clarifying this, so they'll understand what the rules are. It's simple. See? It's education and training for all municipal councils, planning boards—you know.

Mr David Johnson: Let me ask a question to the staff. If this bill is proclaimed, let's say, in January of next year and in February of next year a municipal council in Ontario somewhere determines that its official plan is not consistent with the policy statements, what will the council be required to do at that point?

Mr McKinstry: They will be required to bring their plan into consistency with the policy statements.

Mr David Johnson: So in February of next year, that council would be required to update its official plan.

Mr McKinstry: That's right.

Mr David Johnson: I guess I've swung around from thinking this has no consequence to thinking this is possibly the most onerous part of the whole bill. Technically, if this bill is implemented in January of next year, if all the councils sit down and look at their official plans, and in all likelihood a huge proportion of those official plans will not be consistent with the policy statements, then all those municipalities across Ontario, by this clause right here, will be compelled to start their official plan update at that point.

Mr McKinstry: Whenever the five-year review commences, the council will be required to adopt an amendment to bring it into consistency.

Mr David Johnson: Now you're telling me something different. When I asked you the first question, "If a municipality in Ontario determined that its official plan was not consistent, what would that municipality have to do in February?" you said at that point it would have to commence an update to the official plan. You didn't say anything about a five-year review. You said at that point they'd have to commence an update to the official plan.

Mr McKinstry: My understanding was that you said if they were commencing their five-year review.

Mr David Johnson: No, I didn't say anything about a five-year review. I mentioned nothing about a five-year review.

Mr McKinstry: Sorry, I misunderstood you.

Mr David Johnson: I said, in February of next year, if a municipality determined that its official plan was not consistent with the policy statements, what would it have to do at that point?

Mr McKinstry: Sorry, I misunderstood you. The requirement here is that at the time of the five-year review, they must bring their plan into consistency with the—

Mr David Johnson: I hear you say those words, but where do I look in this document, Bill 163, to point me to the fact that it is the five-year review? Certainly this

amendment doesn't say anything about the five-year review.

Mr McKinstry: If I can read you subsection 26(1) of the current act, it says, "The council of every municipality that has adopted and had approved an official plan shall from time to time, and not less frequently than every five years, hold a special meeting of council, open to the public, for the purposes of determining the need for a revision of the official plan." And then we've added this subsection to that.

Mr David Johnson: So that's added on to that. And we can rest assured that (4) only pertains to what's in (1), the five-year update, which occurs, as we know from the chart that's been given to us, probably an average of about every 10 years in most municipalities. You'll assure me today that (4) cannot be interpreted by itself? Standing by itself it would mean that the municipality would have to come into consistency right away, not within the five-year plan.

Ms Ross: It's our view that by using the words "the council," we're referring back to the same council that was referred to in 26(1).

Mr David Johnson: I see. When you're talking about the five-year review, we all know that the five-year review very seldom occurs in five years. Will you also assure me that your interpretation of the five-year review would be the same as it is today? In other words, if a municipality determined today that it was not consistent with the policy statements, but its five-year review, because of lack of resources or whatever, didn't occur for another seven or eight or 10 years, that the ministry would not be forcing the municipality, at the five-year period, to update their official plan?

Mr McKinstry: I can't tell you what the ministry might do, as I'm only one staff member in the ministry. However, I'm not aware that the powers where the minister may require an amendment to the plan have been used. They may have been. I'm not aware of those circumstances.

Mr David Johnson: Could I ask you a technical question? The subsection reads, "If the council of the municipality determines...." Could you define the word "determines" for me?

Mr McKinstry: We have a dictionary handy if you'd like to look it up.

Mr David Johnson: What does it mean? Does it mean it has to be a council resolution? Does it mean that the planning—

Mr McKinstry: Oh. It's where council decides, where they conclude.

Mr David Johnson: When you say "decides," that doesn't mean anything. Councils have resolutions, they have motions. So what you mean is that there would have to be a council resolution, approved in the minutes, that the council has determined by resolution?

Interjections.

Mr David Johnson: If it's not that, then how else would council decide or determine?

Mr Hayes: When it says that the council determines

or the council makes a decision, it's the council.

Mr David Johnson: I realize that.

Mr Hayes: Naturally, if the council decides or determines their business in council, there's no question that there should be a vote and a motion to make that determination.

Mr David Johnson: So you're saying, in fact, what I'm saying, that it's a motion.

Mr Hayes: Why, certainly it would be.

Mr David Johnson: So when council "determines," it has to be a motion of the council.

Mr Hayes: Right.

Mr David Johnson: But the staff looked puzzled. You understand, Mr Parliamentary Assistant—

Mr Hayes: Yes, we understand it, and they do too.

Mr David Johnson: But I haven't seen the staff agreeing with you yet.

Mr Hayes: They haven't sat on council like you and I.

Mr David Johnson: All right, so it has to be a motion of council. Then the converse of that means that if a council considers this matter, even though the ministry feels the council would be not consistent with the policy statements, if the council issues a resolution and that resolution says, "Moved that this council is deemed to be consistent with the policy statements," you would be satisfied with that resolution.

Mr Hayes: I guess they'd probably find out when it came time to put in a development or change the zoning. They'd find out at that time, I'm sure, that they would know whether they were consistent with or whether they weren't. If they're not consistent, I don't think it's any secret that they'd have problems getting approvals.

Mr David Johnson: I thought I heard you say, Mr Parliamentary Assistant, words like, "The council should decide," and "power to the councils." But if the council passed a resolution and said, "We deem ourselves to be consistent"—

Mr Hayes: None of us in this room, I don't think, are that naïve.

Mr David Johnson: —you're saying the provincial government would not necessarily respect that, or perhaps the approval authority. Notwithstanding that resolution, the province might still say, "You're not consistent." Is that what you mean?

Mr Hayes: Yes, that's right.

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The Chair: All in favour of the amendment? Opposed?

Mr Hayes: It's unanimous again.

The Chair: All in favour of section 17, as amended? Opposed? That carries.

Section 18: Any questions or comments?

Mr McLean: Why are you taking "minister" out of section 18 and substituting "approval authority"?

Ms Ross: Because now we've changed the official plan section, so that official plans are now approved by

approval authority rather than the minister. That's the terminology we now use in the official plan section.

Mr Hayes: Get Big Brother out of there.

The Chair: All in favour of section 18? Opposed? That carries.

Section 19: Questions or comments?

Mr McLean: Is section 19 referring to a secondary plan or a plan that a municipality may want to put on a hamlet, or an area that may be looking for development, that they can put on this secondary plan? Is that what section 19 is referring to? It talks about "the community improvement plan for the community improvement project."

Mr Ross: Section 19 is referring to community improvement plans, which are special plans that councils can put on for community improvement projects, but the only thing we did in that section was make complementary amendments to the numbering.

Mr McLean: Make amendments to which?

Mr Curling: There are no amendments we've got to that section?

The Chair: There are none, no. It's just as it reads there.

Mr Curling: Well, sometimes we don't know. Sometimes they're sneaked in.

The Chair: You wouldn't sneak things through the committee, of course. Any further questions?

All in favour of section 19? Opposed? That carries.

Section 20: There's a government amendment.

Mr McLean: On section 20, before you get to subsection (2), could I have a definition of—

The Chair: Hold on, Mr McLean. We haven't read this into the record yet.

Mr McLean: I wanted to ask before you got to that.

The Chair: Is this something else?

Mr McLean: It's section 20(1), not section 20(2). I want an explanation of section 20(1), talking about substituting "unstable, hazardous, subject to erosion or to natural or artificial perils." Why are you striking out "or unstable"? A bank can be unstable; it could be eroding.

Ms Mifsud: We're putting it back in. We took out "or unstable" because of the "or" and then we put it back in, "unstable, hazardous...." It's just to get rid of the "or". It's just a drafting.

The Chair: Okay, Mr Hayes, to your amendment.

Mr Hayes: I move that paragraph 3.2 of subsection 34(1) of the Planning Act as set out in subsection 20(2) of the bill be amended by adding after "For prohibiting" in the first line "all or any use of land and".

This was a drafting oversight. It's the same wording as already found in paragraph 3.1 of the same subsection.

Mr McLean: How do you determine a headwater area?

Mr McKinstry: This is an issue that flows out of the policy statement. Natural areas will be defined by municipalities in consultation with the provincial government. What we're doing is developing guidelines, developing

them in consultation with the task force. It's a public process, and when that's gone through, then municipalities will be able to define these areas with these guidelines and with criteria. So I can't give you a definition of a headwater area; that's coming out of the policy statements. This is a way of implementing the policy statements.

Mr McLean: Would I be able to find it in the wetlands policy statement?

Mr McKinstry: I think it is in policy statement A, 1.1. It's also defined in the policy statement, and it means the source area of a stream.

Mr David Johnson: I don't know if this is the appropriate time, but Mr McLean has raised the issue of the policy statements. What's not clear in my mind is that we have the policy statements, and we know we must be consistent with the policy statements, we have a raft of principles on page 4 of the bill, and now we have the list here of environmental criteria of some sort. How do all these jibe together? I seem to have list upon list upon list of environmental concerns and principles and policies and whatever this is.

Mr McKinstry: Section 34 is an enabling section for municipalities to use if they wish. What it does is allow municipalities to control uses on these types of areas. It's the legal way, the legislative way, I guess, that municipalities can control areas they want to protect as a result of the policy statements. It is enabling for municipalities.

Mr David Johnson: Given that there are the policy statements, if municipalities choose to use them, are these an addendum, in a sense, to the policy statements? Do these modify the policy statements somehow?

Mr McKinstry: No, they are a way of implementing the policy statements. I believe the term is "applicable law." A zoning bylaw is applicable law, so if something doesn't conform to a zoning bylaw you cannot issue a building permit. So for the municipality to be able to refuse a building permit, they have to have used zoning to control uses on the site.

Mr David Johnson: I guess I'm saying there are environmental protections built into the policy statements, lots of them.

Mr McKinstry: That's right.

Mr David Johnson: You say this is enabling, so if the municipality chose to use these, it has the environmental controls contained in the policy statements, and these are added on as well to supplement them?

Mr McKinstry: This is what implements. There's an official plan of the municipality that must be consistent with the policy statements, and that sets out the broad general policy, but the thing that actually controls the use on the land is the zoning bylaw. In other words, the official plan of a municipality might designate an area for low-density use; the zoning bylaw would actually state the kinds of dwellings, the sideyard setbacks, the front-yard setbacks, all the details. That's really what this is getting at.

Mr David Johnson: If this is enabling and there's a choice for the municipalities to use it or not, and it's protection of land, there are private land owners who

could indeed be involved in this. What sort of compensation—I don't know what you'd call it; let's just use the word "compensation"—would be required to those land owners as a result of the actions of the municipality under this section?

Mr McKinstry: This, in my view, is no different from the normal zoning practice of a municipality. In other words, in some areas of a municipality you can build one house; in another area of the municipality on a similar-size lot you can build a 50-storey high-rise. There's a vast difference in the value of land as a result of those zonings, but there has never been any compensation paid to the owner of land who can only develop a house, even though that owner is not able to reap the same benefits as the person who owns the land where you can build a high-rise.

1620

Mr David Johnson: What I'm wondering, though, is that there is a set of policy statements that govern Ontario, right across Ontario; every municipality must be consistent with these policy statements and there's environmental protection built in. Now we have further conditions that municipalities may or may not choose to use, as I understand it, beyond those policy statements, so some property owners may be subjected to them—if I can use those words—in some municipalities but not in others. Does that not raise concerns?

I'm just looking at how the clause starts. It says, "For prohibiting all or any use of land and the erecting, locating or using all or any class or classes of buildings...." So if in some areas of Ontario private property owners are prohibited from erecting or locating buildings or using some of their property, above and beyond the environmental policy statements of the province of Ontario, does this not suggest that perhaps there should be some form of compensation in those cases?

Mr McKinstry: I would return to my former point, which is that the planning system in Ontario always creates a system whereby some people have a greater use of their property than others, some people reap more value from their property than others. If you live in a city, your property is probably worth more per square foot than if you live in a rural area. That's the way the planning system in Ontario has always worked. So this is simply another part of that, whereby municipalities may zone natural areas where there may be no building. They may also zone areas for high-rises, for low-rises, commercial-industrial. They all have different values. No compensation has ever been paid to land owners for that fact.

Mr David Johnson: Are there any limitations on what a municipality may declare in terms of wetland or woodland, or ravine or wildlife habitat, corridor, shoreline corridor etc, etc? Are these in the eye of the municipality to determine?

Mr McKinstry: The policy statements set out what the province believes is significant. That comes through the policy statements and it'll be explained further in the guidelines. The municipality, if it wishes, could go further, so the municipality, in other words, could protect class 4 wetlands, but then the land owner has recourse to

the Ontario Municipal Board, which will look first of all at the policy statement and then at the reasonableness of this action. There's always that recourse over to the Ontario Municipal Board if a municipality has gone further than the policy statements.

Mr David Johnson: But the municipality is entitled to go further than the policy statements through the clauses we're dealing with right now.

Mr McKinstry: The municipalities can go further, but it seems to me that the board would be looking to see whether or not this area was significant, so they'd be looking for studies to see why the municipality wanted to go further than the policy statements. In some cases there may be good reason, in others there mightn't be, but the board is there to determine whether or not their actions are reasonable.

Mr David Johnson: It should present some interesting court cases, I suspect, the use of the word "significant."

Mr Hayes: But then there's the other side of it: Municipalities have made zoning changes that would make someone's property more valuable. Are you suggesting that individual should pay that municipality money, give it money because their property is—

Mr Grandmaître: Lower his assessment.

Mr Hayes: No, no. You're saying in one way that maybe the government should compensate, but when someone's property is made more valuable, is that person going to pay the government more money? I think not.

The Chair: I think we're ready for the question.

Mr Curling: No, no. This concerns me quite a lot, especially in my area where the Rouge Valley runs in the backyard of many, many people. I have known cases where people's land is slipping away and they're asking the municipality to put reinforcement so it doesn't happen, and they are more or less quoting something like this. While the man's land is going away, his backyard, they don't want to do anything because of this part, paragraph 3.2, "For prohibiting...the erecting, locating or using"—which you are amending anyhow—"all or any class or classes of buildings or structures" in any defined area or areas.

The individual was saying, "My land is slipping away," but they come back to say that because the Rouge Valley runs behind, it's a sensitive area so they don't want to build anything behind that. Is this restriction protecting the municipality and the government not to do anything for this individual, but they have the recourse to go to OMB and say, "They're not going to do anything about this"? This is what I'm reading this section to say.

Mr McKinstry: I don't think this act or this section deals with whether or not the municipality might give a land owner assistance. What the policies do is possibly prohibit development in hazardous areas where there's slope slippage.

Mr Curling: Yes, on development. But the fact is that he doesn't want compensation. The land he bought in good faith, is paying taxes on, is going away into the river, and the municipality is saying, "We're not going to touch it because it's a sensitive area and all that."

Mr Hayes: I don't think that's it at all. They're saying you're not going to be able to build on it. There's certainly nothing in here that stops a person from protecting their property from erosion.

Mr Curling: Let's go to 3.1: "For prohibiting all or any use of land and the erecting, locating or using of all or any class or classes of buildings or structures on land that is contaminated, that is a sensitive groundwater recharge area or headwater area or on land that contains a sensitive aquifer."

I'm saying to you that this could restrict. When he asked for protection because his land is slipping away, the municipality refused to act on it because they're saying it's a sensitive area behind there. I could be wrong in all of this. I'm asking, what recourse would an individual have? Did you say, when answering Mr Johnson, that they can go to the OMB or appeal it, that that's the recourse that land owner would have?

Mr McKinstry: If I'm getting you clearly, you're saying that the municipality may refuse to help a land owner shore up their property or protect their property because they said it was sensitive?

Mr Curling: They can't build a structure, a wall, because his land is slipping away into that area. He can't build it and neither will they build it.

Mr Hayes: You couldn't do it now anyhow.

Mr Curling: What should he do then?

Mr Hayes: You're not going to be able to build on land that's going to erode and go into the river.

Mr Grandmaître: There's a shoreline policy.

Mr Hayes: It's already there. This is certainly not going to change that.

Mr Wiseman: What this policy will do is prevent builders from building in that kind of situation and putting future purchasers in that kind of situation. That's the way I read this, that they won't be able to do that. You can't build that close to—

Mr Curling: He's not building. He's trying to make sure that what he has doesn't slip away, and they don't want to do it.

Mr Wiseman: This is not going to prevent that person from doing what is necessary to shore up his land and prevent it from slipping away. What it's going to do is prevent a developer from putting a house that close to a ravine or an unstable piece of property in the first place, putting the purchaser into this kind of predicament.

Mr Curling: Let me hear from the officials, because I don't know if I could take your authority.

Mr Wiseman: They're nodding agreement.

Mr McKinstry: The zoning bylaw could allow exceptions to the prohibition on building to allow structures that in fact protect the bank or protect an unstable slope. The municipality could do that, potentially.

Mr Curling: But they refuse now to do that.

Mr Wiseman: Not because of this.

Mr Curling: Let me just hear from the officials, Mr Authority.

Mr McKinstry: The province is not going to inter-

vene, I don't think, in a municipal zoning matter. If the municipality is not willing to spend money on a land owner's property, I don't think the province would intervene.

Mr Curling: He's also restricted from building anything.

Mr McKinstry: No. The municipality may decide where and when these restrictions should apply, and it would have the ability to make exemptions to those restrictions if it wished to allow structures to prevent erosion.

1630

Mr Grandmaître: My question is a very simple one. Have all these sensitive areas of this province been identified?

Mr McKinstry: No. The environmental areas, if you like, that have been identified by the province are provincially significant wetlands. As I've said before in this committee, there are a number of other areas in the policy statements which are to be protected; the natural heritage areas is how we refer to them. The process there is that we are writing guidelines and the province will set some criteria, and municipalities will actually define these areas themselves through their official plan preparation process.

Mr Grandmaître: Once these lands are identified, property owners will become losers for the simple reason they won't be able to erect a building or a structure on these lands, right?

Mr McKinstry: I think I've also mentioned in this committee that what we're finding is that many municipalities are ahead of the province in their policy work and are already defining things like ravines and stream corridors and woodlands and protecting them. In fact, many developers, I believe, think this is an enhancement to their development, where they have set aside areas as natural areas. What the province is doing is recognizing what the public is asking for and setting policies to protect natural areas.

Mr Grandmaître: Going back to the sensitive areas, once they're identified, won't municipalities need to amend their official bylaws to identify these sensitive areas?

Mr McKinstry: They will need to amend their official plans. Zoning bylaws implement the official plans.

Mr Grandmaître: Yes, but it could affect the zoning as well.

Mr McKinstry: Yes, certainly.

Mr Grandmaître: So municipalities, without compensation, because the province has identified these sensitive areas will have to abide by your policies and amend their official plans and possibly their zoning bylaws.

Mr McKinstry: In fact what I said was that municipalities would define the sensitive areas, not the province, and that municipalities would do that in conjunction with—

Mr Grandmaître: Their review?

Mr McKinstry: In their official plans, with their

ratepayers and the groups in their municipalities. The other thing I said was that in fact planning in Ontario has always established or taken away value. That is the nature of planning, where some people can do things with their property that generate more revenue than others, if you like.

Mr Grandmaître: Let's talk about the values, then. Will the province reassess those properties?

Mr McKinstry: I'm not familiar with the assessment process. I don't believe the assessment will be affected by this.

Mr Grandmaître: At the present time, let's say a piece of land is zoned industrial or commercial or industrial, and it's declared to be a sensitive area. Naturally, the zoning will be affected. Will this property be reassessed to its proper value?

Mr McKinstry: I stand corrected. In fact, zoning is an important part of the assessment process.

Mr Grandmaître: It's very important.

Mr McKinstry: In fact, assessment would take into account the zoning on the property.

Mr Grandmaître: Now, will the province compensate the loss of value?

Mr McKinstry: There is no plan to pay compensation. As I said before, the nature of the planning system in Ontario is such that if you're in one area you get to do different things with your property than if you are in another area. That's always been the nature of the planning system in Ontario.

The Chair: All in favour of—

Mr David Johnson: I just want to read one more thing, from the Ontario Federation of Anglers and Hunters. I just happened to spot it here. They're commenting on this very section.

The Ontario Federation of Anglers and Hunters says: "Further, we are concerned that policies implemented under this specific provision of the act"—they're referring to amendments to paragraphs 34(1)3.1 and 3.2—"have the potential to be unscientific and/or preservationist in nature; that is, they will unduly restrict private land-owners ability to develop their lands for any purpose, regardless of its impact. This scenario is unacceptable to the Ontario Federation of Anglers and Hunters, as is the other extreme scenario, in which the legislation would fail to protect important natural features and functions."

Primarily, I think their message is that in their view, they don't feel that this section is very well defined, and they feel it should be better defined before being proceeded with.

Mr Hayes: They are assuming, and we do not agree with their interpretation.

Mr David Johnson: I beg your pardon.

Mr Hayes: We have a difference of opinion.

Mr David Johnson: I gather that.

Mr Eddy: Following up on that, there is a tremendous loss of development rights, as minor as they might be, and when it comes to assessment, assessors will have to recognize the loss in value. There will be a great loss

and it will have to be recognized, because if the assessors don't do it, I'm positive the courts will. Assessment will be affected, and use of land is a primary factor in assessing properties. If you talk to any assessor, you'll find that: Regardless of the zoning, it's the use.

Mr Wiseman: On Mr Eddy's point, I would tend to say, yes, that's true, but any time you do an official plan and you don't give zoning at the highest densities and the highest utility, say, units per acre, then you're also implying a loss of potential.

Mr Eddy: That's not a downzoning.

Mr Wiseman: But according to the act, you should be able to do downzonings now, but because of implied development rights, that's not usually allowed or done without some kind of compensation. When you're talking about this, if land has lowest implied development rights value now—and we already assume that municipalities, through their official plans, have the right to designate that land and to determine what developments, if any, there are going to be on it, and at what level of the hierarchy in the zoning structure. I would agree with you, but I would just that this is one more consideration.

Mr Curling: Precedent has been set for contaminated lands, where assessment had been revalued and has dropped with possible contaminated soil. Not only that: Even their houses have been compensated for because of devaluation by the contaminated soil. Reassessment is a very, very important part of all of this, and I hope the parliamentary assistant takes that into consideration. Maybe you should take time to relook at this one, stand this one down maybe, be sensitive to those people who are losing their property, as the individual in my area who wants to protect his kids from falling into a hole.

Mr Hayes: Come on, let's quit being ridiculous. This stuff here is not going to cause that kind of problem for anybody's property, where it's going to cause their kids to fall in the stream. Get real. If there's a problem there, they can fix those kinds of problems. You're going a little too far now, Mr Curling.

The Chair: All in favour of the government amendment? Opposed? That carries.

Moving on: Section 20 continues; a Liberal motion.

Mr Eddy: I move that subsection 34(1) of the Planning Act, as set out in subsection 20(2) of the bill, be amended by adding the following paragraph:

"3.4 For entering into agreements regarding the provision and availability of services they are responsible for at the time of rezoning."

We support, of course, the inclusion of a new section in the act enabling the approval authority to provide for the lapsing of draft approval for plans of subdivision and the ability to extend this lapsing time. This amendment would give the approval authority the ability to set a date for the expiry of draft approvals so that draft plan approvals would be terminated in cases where the development was allocated water and sewer capacity but has not proceeded to final approval.

The wording of this section needs to be amended to clarify that only the sewer and water allocation, as opposed to the plan itself, should lapse within the spec-

ified time period. That sounds very logical to me. It's a request of AMO.

1640

Mr McKinstry: If I can make a comment on that, the government has a motion further on in the package which would allow two different things to happen, either together or separately: One is lapsing—that's already in the bill—and the second is that we are setting up a system, through a motion, which would allow municipalities to lapse the water and sewer capacity allocation to a plan of subdivision; they could either lapse the lots and the allocation or they could lapse only the allocation. So we are actually doing this, but we have a slightly different mechanism to do it. Our mechanism would be giving the municipality the ability to pass a bylaw which gives capacity and then could take it away.

Mr Wiseman: This raises an interesting question. If the municipality chose to lapse just the sewer and water capacity but to leave the subdivision plan in place, and then later on down the road the proponent of the subdivision comes forward and says, "I'm ready to build," but there's no sewer and water capacity left, would the proponent then be able to sue the municipality for taking away his sewer and water capacity while still leaving the plan of subdivision in place?

Mr McKinstry: The developer would know that when he or she got their draft approval, there was a time limit, so they would not be able to go to court and claim they were unaware.

The other thing I'd point out is that the subdivision would only be draft-approved, it wouldn't be final-approved, and there'd be no zoning. It's when there's zoning in place that you can require the municipality to issue a building permit.

Mr Wiseman: That really makes things interesting, doesn't it? If they have building permits and they don't exercise the building permits, will they still be time-constrained, or is it that as soon as they get their first building permit they're not time-constrained any more?

Mr McKinstry: What I'm saying is if the capacity is being lapsed, it means the subdivision has not received final approval; therefore, you won't have zoning in place and therefore you won't be able to get a building permit. You couldn't get to final approval until you got your capacity back.

Mr Wiseman: The comments we heard from the small builders was that if they have a plan of subdivision and they have final approval, they can build at any pace they want—two houses a year, three houses a year—and they won't have their plan of subdivision lapsed?

Mr McKinstry: That's right. If they have final approval, they're done.

Mr Wiseman: We've got lots of different scenarios.

The Chair: Further questions? Mr Eddy has moved this amendment. All in favour of that amendment? Opposed? Okay, that's defeated.

A PC amendment: Is it the same or slightly different?

Mr David Johnson: This is the same motion, so we'll withdraw it.

The Chair: Very well. Moving on: a PC amendment.

Mr David Johnson: I move that subsection 20(2) of the bill be struck out.

We've had quite a lengthy debate about this. It just revolves around an uneasiness about the interpretation of the sections here, the small-l liberal use of the word "significant," which is going to be open to various interpretations.

As I mentioned, the Ontario Federation of Anglers and Hunters called the clause "unscientific." I guess that's another way of saying it's not very well defined. We also have the protection of the policy statements for environmental matters and we have the protection of the various principles that are enunciated earlier on, so the motion here is to strike out this clause.

The Chair: Discussion? All in favour of the amendment? Opposed? The amendment is defeated.

We have a government motion.

Mr Hayes: I move that section 20 of the bill be amended by adding the following subsection:

"(3.1) Subsection 34(12) of the act is amended by inserting after 'persons' in the last line 'and public bodies.'"

This is also a technical, housekeeping amendment to a provision in the act. This amendment just adds "public bodies" to persons to be prescribed to receive notice of public meeting and application to amend the zoning bylaw.

The Chair: Discussion? All in favour? Opposed? That carries.

A government motion.

Mr Hayes: I move that subclause 34(25)(a)(iv) of the Planning Act, as set out in subsection 20(10) of the bill, be struck out and the following substituted:

"(iv) the proposed bylaw or the proposed amendment to a bylaw passed under this section is premature because the necessary public water, sewage or road services are not available to service the land covered by the proposed bylaw or the proposed amendment to a bylaw and the services will not be available within a reasonable time;"

I think we've discussed "reasonable time" several times.

Mr David Johnson: Can I just clarify? This section of the bill pertains to what?

Mr McKinstry: Zoning bylaws.

Mr David Johnson: So this would be an amendment to zoning bylaw application, and then some authority—which authority is it?—would be empowered to dismiss.

Mr McKinstry: Where a zoning bylaw is appealed to the Ontario Municipal Board, the Ontario Municipal Board has powers to dismiss. We're changing slightly one of those powers, the one based on the fact that the application is premature.

Mr David Johnson: And you're defining "premature," as in earlier discussions, so that "premature" can only pertain to public water, sewage or road services not being available.

Mr McKinstry: That's right.

Mr David Johnson: All right. I guess the same discussion holds true, then.

The Chair: It would.

All in favour of the amendment? Opposed? That carries.

Another government amendment?

Mr Hayes: I move that section 20 of the bill be amended by adding the following subsection:

"(12) Subsections 34(27) to (29) of the Planning Act are repealed."

This actually removes the minister's power to declare the matter to be of provincial interest. It's self-explanatory.

Interjections.

The Chair: Do you want Mr Hayes to repeat the explanation to this?

Mr McLean: What page is that on, page 23?

The Chair: Of the bill, you mean? Page 25. Mr Hayes, do you want to explain the effect of the amendment?

Mr Hayes: It's in the act and not the bill, first of all, but it removes the minister's power to declare the matter to be of provincial interest.

Mr Curling: That slows me down, but that's okay. We can't find it.

1650

The Chair: All in favour of the amendment? Opposed? That carries.

Mr McLean: I didn't see it carry. There's only one that voted.

Mr Hayes: It sure did. Actually, these two guys and myself carried it, without them.

The Chair: I didn't see anyone opposed either. All in favour of the amendment? Please, would you just put your hands up one way when the Chair says that? Opposed? That carries.

The Chair: We have a Liberal amendment that follows. Your motion is identical, isn't it, so you're not moving that, correct?

Mr Eddy: It looks exactly the same as the one the government sneaked in ahead of us and numbered at a lower number than ours. What do you call that, being upstaged? What's the term?

The Chair: And the Conservatives, similarly? You're not moving yours, correct? Okay.

We then have a government motion following that.

Mr Hayes: I move that section 20 of the bill be amended by adding the following subsection:

"(12) Subsection 34(34) of the act as re-enacted by the Statutes of Ontario, 1993, chapter 26, section 53, is amended by adding after 'person' in the third line 'or public body'."

This is another technical, housekeeping amendment to a provision in the act.

The Chair: Questions? All in favour? Opposed? That carries.

Just as a reminder, (12) will change to (13) because of

the previous amendment that carried, which was (12), and this will become (13).

Mr McLean: Just a minute. What section are you talking about?

The Chair: There was a previous motion that passed, and that was—

Mr McLean: You want to bring all these last-second motions in and then try to slip them all through?

The Chair: No, this is a numbering issue. The previous one had (12) in brackets; this one has (12) in brackets, and it just becomes (13), that's all. It's just a numbering matter. Where it says (12) in brackets it becomes (13) as a numbering item.

Mr Drummond White (Durham Centre): With respect, Mr Chair, it's not an issue for the committee. It's something that's dealt with in the drafting of the bill.

The Chair: It would just be corrected by staff under normal circumstances, correct.

All in favour of this section, as amended?

Mr David Johnson: Mr Chair, have we dealt with motion 87?

The Chair: That is a different matter, a new section.

Mr David Johnson: Well, it's section 20.1. I see the number 20 in here and I thought you were dealing with all of 20.

The Chair: It's a new section; 20.1 will become a new section.

Mr David Johnson: All right. I just wanted to—

Mr Curling: So we're taking care of 20 now.

The Chair: All in favour of section 20, as amended? Opposed? Okay, that carries.

We're into a new section, a government amendment.

Mr Hayes: I move that the bill be amended by adding the following section:

"20.1 (1) Subsection 36(3) of the act is amended by striking out '30' in the fifth line and substituting '90'.

"(2) Subsection 36(4) of the act is amended by striking out 'agencies' in the fifth line and substituting 'public bodies'."

This change is necessary to bring the holding bylaw section in line with the new provision that council has 90 days to consider a rezoning application in section 34 of the act.

Mr McLean: Mr Chair, we held meetings across this province on Bill 163 and we had many delegations in talking about it. Today, we're appearing with the original act, which nobody's seen, nor have we dealt with that in committee. I don't happen to have a copy of it because I didn't think I would need it because I thought we were dealing with the amendments in here. Why are we dealing with this other legislation? We're amending the Municipal Act without seeing what it is.

The Chair: Obviously, some matters relate to the bill from time to time, so these sections do that. Mr McKinstry, do you want to comment?

Mr McKinstry: I can read the section for you.

The Chair: No, he understands that.

Mr McLean: I don't need the section. We are dealing with this.

The Chair: I understand, but there are times when motions relate to the original act, so some changes are made or reference made to it. I'm not sure how we can be helpful with, except for the members to go through—

Mr McLean: That wasn't what we were bringing in our amendments for: dealing with the original act. The ministry is doing that without our knowledge, not knowing that that's what you're doing.

The Chair: Except, Mr McLean, these motions have been in our hands for some days now, and we presume that if the members would review this, they would refer to the original act when necessary.

Mr McLean: There's only so many hours in the day, Mr Chair. We can't sit up all night going through this whole pile of amendments and all the other acts—

The Chair: I understand, but I'm not sure how else to proceed.

Mr David Johnson: Can I make a suggestion? It's now about two minutes to 5. Would it be possible for the staff to get us a copy of this particular section? It seems to require maybe a little clarification on our part, and then the next time we pick up, we'll have that, and we'll be able to—

The Chair: Sure, but I'm prepared to adjourn this, because it'll take more than moment or two to deal with this matter.

Mr Curling: Before we adjourn, Mr Chair, Mr McLean made a very important point. I think it was raised before. While we are trying to be as constructive as we can in helping this government bring about a good bill, what is happening here is that from time to time, as a matter of fact more times than we thought necessary, we're referring to the act, which we don't have before us.

You're saying you want to know how you can be helpful, and there's a suggestion made that we get this act. What we are doing now, what is before us, is this bill that has all amendments to this act—I don't think I'm getting the attention here at all.

The Chair: If I can, I think that if members need the act, they should get one.

Mr Curling: It's surprising, Mr Chairman, that you always seem to answer my question before I even ask it.

The Chair: Mr Curling, it's just that I was dealing with Mr Johnson; he was raising a point.

I feel we can adjourn, and that will give you all sufficient time in the meantime to get the act, review it and refer to any of the motions so that you will be properly prepared when we come back.

Mr Hayes: You'll have a month to do that.

The Chair: That's right. This committee is adjourned.
The committee adjourned at 1658.

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Tilson, David (Dufferin-Peel PC)

*Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND)

*Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy

Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli

Hayes, Pat (Essex-Kent ND) for Mr Malkowski

Johnson, David (Don Mills PC) for Mr Harnick

McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson

White, Drummond (Durham Centre ND) for Mr Bisson

Wiseman, Jim (Durham West/-Ouest ND) for Ms Harrington

Also taking part / Autres participants et participantes:

Ministry of Environment and Energy:

Jackson, Jim, counsel, legal services branch

Ng, Wilfred, director, approvals branch

Willis, Sheila, assistant deputy minister, regional operations division

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister

McKinstry, Philip, acting director, municipal planning policy branch

Ross, Elaine, solicitor, corporate resources management

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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ISSN 1180-4343

**Legislative Assembly
of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Monday 31 October 1994

**Journal
des débats
(Hansard)**

Lundi 31 octobre 1994

**Standing committee on
administration of justice**

**Comité permanent de
l'administration de la justice**

**Planning and Municipal Statute Law
Amendment Act, 1994**

**Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
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STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Monday 31 October 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Lundi 31 octobre 1994

*The committee met at 1603 in room 228.*PLANNING AND MUNICIPAL STATUTE LAW
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): Mr Hayes had moved a motion and we're into the debate on that particular motion. That motion is page 87, for those who have those pages in front of them. Mr Hayes, do you want to speak to that motion?

Mr Pat Hayes (Essex-Kent): Yes. This amendment proposes to change the period for council to consider an application to remove the holding symbol from a zoning bylaw from 30 days to 90 days.

Mr Chris Stockwell (Etobicoke West): Are you on page 87?

Mr Hayes: Yes, page 87 of the motions.

The Chair: The motion is section 20.1.

Please continue, Mr Hayes, or start from the beginning, in order for the others to follow.

Mr Allan K. McLean (Simcoe East): Just a minute. I'd like to find where we're at first, Mr Chair. We're not in that big a rush, are we?

The Chair: No, not at all.

Mr Hayes: You're on page 87, a government motion, section 20.1 of the bill, subsections 36(3) and (4) of the Planning Act.

Mr Stockwell: What page is it in here?

Mr Hayes: It's 25 in the book, in here.

Mr Stockwell: Okay. We're on the same page. We're in sync.

Mr Hayes: It would fit in page 25. This is an addition to the bill.

This change is actually necessary to bring the holding bylaw section in line with the new provision that council has 90 days to consider a rezoning application in section

34 of the act. Then also the amendment replaces the word "agencies" with "public bodies." This is a technical housekeeping amendment and "public bodies" would now be defined in the bill.

Mr McLean: How many days was it before this change?

Mr Hayes: It was 30 before, and if you recall, during the hearings there were people saying that council would need more time. The 30 days wasn't enough time for them to deal with the zoning bylaws.

Interjection.

Mr Hayes: Yes.

Mr McLean: We have some amendments here that were given to us today dealing with section 17. How come we're not going back to section 17? Why are we continuing with section 20 when we've got amendments here for section 17?

The Chair: The clerk obviously has a better memory of this than the Chair does.

Clerk of the Committee (Ms Donna Bryce): Those are new amendments to section 10. Section 10 had a number of amendments which were stood down. Therefore, section 10 on the whole has been stood down. Once we complete all the other sections in the bill, we'll go back to those which have been stood down, which will include those two new ones to section 10, with the new two amendments.

The Chair: Discussion on that?

Mr Bernard Grandmaître (Ottawa East): We're simply continuing—

The Chair: Exactly.

Mr Grandmaître: Okay.

Mr Stockwell: Was this applicable at all before? What was the length of time for a holding bylaw?

Mr Hayes: It was 30.

Mr Stockwell: Yes. As I remember, it used to be 30 days too.

Mr Hayes: It was 30 days.

Mr Stockwell: Is that considered not enough time any more?

Mr Hayes: That's what we're getting from municipal people and planners and that in municipalities. That's what they presented to us during the hearings.

Mr Stockwell: Okay. I'll speak to it then, Mr Chair.

The Chair: You go right ahead, Mr Stockwell.

Mr Stockwell: Oh, that's quick.

The difficulty I have with that amendment is, a holding bylaw is put on for the planning staff in municipalities to kind of get together and get their ducks in a row because they're not prepared at the time to deal with the bylaw. The developer's ready to go, the participants are in fact ready, but the planning department, as I understand it, is not ready. Now you're going to go from a 30-day holding period to a 90-day holding period where the developer then has to wait an additional two months while the planning staff gets their act in gear.

I really don't understand why a municipality that has written the official plan, a municipality that has in fact written the bylaws and has in fact studied the bylaws, needs any more than 30 days to deal with an application.

You see, as this works, as I understand it, and in fact as I think it's worked in the past in the councils I sat on, the holding, or the H, is put on because they're not ready to go and they're only given 30 days, but that's only because it seems to me they are not prepared, and they should be prepared, in my mind, within 30 days, because it's their bylaws, they're their official plans, they're their zonings.

They should have a pretty good understanding of what they're doing. Why do they need three months to determine what their bylaws and what their planning staff mean when they wrote the official plan and the zoning bylaws were put in place in the first place? I don't understand that.

Mr Philip McKinstry: We were doing several things. One of the things we were doing, for example, was changing the notice, the ability of the municipality to pass a zoning bylaw and have it go to the board if they refused to consider it within 30. We were changing that to 90 because municipalities were telling us some municipalities don't have meetings in time, for example. We also thought in this case, in order to give the municipality time to check out why the holding symbols had been removed, to make sure services are available, we thought that they should have in fact 90 days as well, that it should be consistent through the act.

1610

Mr Stockwell: You're giving the municipality time, you're saying, to meet and withdraw or do whatever they're going to do. Is that what you're saying?

Mr McKinstry: That's right.

Mr Stockwell: And 30 days isn't enough time to meet on a holding bylaw? The council is telling you it doesn't meet within the 30-day period?

Mr McKinstry: The staff needs to do analysis. They have to find out if all the conditions have been met, and then council has to have made that determination.

Mr Stockwell: What was happening in the past?

Mr McKinstry: It was hard for them to meet it in the past.

Mr Stockwell: But they were meeting it. So you're going to slow the process down by an additional 60 days. That's what it comes down to. A process that is painfully slow already is now going to have a built-in 60-day, two-month, waiting period. In my recollection they seemed to meet them all. Sure, it was work, but they always got

there on time. Maybe the parliamentary assistant would like to comment on that.

Mr Hayes: No. Mr McKinstry will respond.

Mr McKinstry: I guess in terms of the zoning bylaws and the other changes we made, municipalities were telling us that they could not meet them, in fact 30 days was not enough, and that if developers wished to take them to the board in that 30 days, they could; in fact, they might not have. So in this case as well we were being told that it was not enough time to meet that 30 days. We have put in a number of other time frames to make sure that the planning system is faster.

Mr Stockwell: Okay, I'll leave my comments on the record, and my comment on the record is that if you believe this is going to speed up the planning process, there are a lot of things that you believe in that I don't. Secondly, if you believe speeding up the planning process means extending periods from one month to three months, then you're wrong. Furthermore, if municipalities put their minds to it and do what they're supposed to do, which is get responses and take action, they should have this done in 30 days.

I don't see any problem with a municipality doing as it is supposed to do, and that's dealing with a holding bylaw within 30 days. You know something? They always tell you they can't do it, but in the past history, they've done it. If they weren't going to be able to make it, they'd have to ask the developer not to take them to the OMB, and any reasonable developer would not take them to the OMB because they didn't deal with a holding bylaw within 30 days. This is just another process that's going to slow down the whole system.

The Chair: Are there other speakers?

Mr McLean: I agree with Mr Stockwell.

Mr Stockwell: Right on.

Mr Grandmaître: This request to increase it to 90 days, is this an AMO recommendation?

Mr McKinstry: AMO supports this, yes.

Mr McLean: Whose recommendation is it?

Mr McKinstry: I'd have to go back and check exactly. Sorry. I don't have it off the top of my head.

Mr Grandmaître: But it's not an AMO recommendation? They might support it—

Mr McKinstry: It might be. I'd have to go through their—

Mr Grandmaître: —if AMO likes it.

Mr McKinstry: Certainly they have requested in a number of instances, for example the zoning bylaw one, that we extend the period because they couldn't meet the 30 days.

The Chair: Okay? Thank you. Any other questions? I think we're ready for the question. All in favour of Mr Hayes's motion? All opposed? This motion carries.

Section 21, a government motion. Mr Hayes.

Mr Hayes: I move that section 21 of the bill be amended by adding the following subsections:

"(2) Subsection 38(3) of the act is amended by striking out 'agencies' in the fifth line and substituting 'public

bodies.'

"(3) Subsection 38(4) of the act is amended by striking out 'agency' in the first line and substituting 'public body.'"

These two amendments replace the word "agency" or "agencies" with "public body" or "public bodies" in section 38 of the act. It's actually a technical or a house-keeping amendment. Public bodies are now defined in the bill.

Mr McLean: What page is that section on, amendment 88? Section 21, what page is it on?

Mr Hayes: It's not on any page. It's a new part of the bill.

Mr Stockwell: Where would it slide in?

Mr Hayes: Section 38 of the act would be on page 25, I guess.

The Chair: Page 25, yes.

Mr Hayes: It would fit in on page 25 of the bill.

The Chair: Any discussion on that? All in favour of Mr Hayes's motion? Opposed? That carries.

Shall section 21 carry, as amended? All in favour? Opposed? That carries.

Any questions on section 22?

Mr Stockwell: It's as is, right?

The Chair: Exactly.

Mr Grandmaître: No amendments?

The Chair: Correct, no amendments. Any questions? Have you had enough time to look at that?

Mr Stockwell: On 22?

The Chair: Yes.

Mr Stockwell: Call the vote.

The Chair: All in favour of section 22? Opposed? That carries.

Section 23.

Mr Hayes: I move that section 42 of the Planning Act, as set out in section 23 of the bill, be amended by adding the following subsection:

"Non-application

"(7.1) Despite clauses 74.1(2)(h) and (i), subsection (7) does not apply to land proposed for development or redevelopment if, before this subsection comes into force, the land was subject to a condition that land be conveyed to a municipality for park or other public purposes or that a payment of money in lieu of such conveyance be made under this section or under section 51 or 53."

Mr Stockwell: Where's he reading from?

Mr Hayes: From our amendment; 88a is the amendment.

Mr Stockwell: Eighty-eight what?

Mr Hayes: Government motion 88a.

Mr Stockwell: I've got 88a. That's not what he read.

Mr Hayes: This actually replaces that and clarifies it better.

The Chair: Yes, exactly. If you look in the pile that you have there—

Mr Hayes: It's in this package.

Mr Stockwell: So this new amendment replaces the old amendment.

Mr Hayes: Yes.

Mr Stockwell: Tough to keep your amendments straight. Okay, can you start again?

The Chair: Okay, Mr Hayes. They're ready now.

Mr Hayes: This amendment actually clarifies the new parkland provisions that do not apply to developments where conditions were imposed requiring conveyance of lands for parkland purposes or a payment in lieu of parkland. They had some concerns in Mississauga and this was to address that particular concern where—how did that go?

Mr Stockwell: Could you be a little more vague?

Mr Hayes: Yes, I'll try to be. We feel that this will—

Mr Stockwell: Will fix it.

Mr Hayes: —help Hazel's concern. There was some concern there was the possibility for municipalities double-dipping; in other words, charging a developer at the beginning and then charging him again after the development. What this actually says is that agreements that were made prior to this wouldn't be affected, because they were concerned about losing a considerable amount of money in Mississauga. This would allow them to stay with the arrangements they made before.

Mr Stockwell: Right. This is to stop municipalities from making an agreement at application and then coming back at site plan and changing the terms and conditions. Is that what they're saying?

Mr Hayes: Dollarwise.

Mr McKinstry: In fact, what this is doing is saying the municipality has the legitimacy to say, "We required a parkland dedication before these new rules came in, either at the subdivision stage or the redevelopment stage, and now we can still collect it, even though a new Planning Act has come into force." So the rules will not change for agreements made prior to legislation coming in.

Mr Stockwell: Got it. Thanks.

1620

Mr McLean: Could I have a clarification on that? At what stage is the agreement at when this will be effective? On a subdivision agreement—they have a subdivision agreement, they have an agreement drawn up—at what stage in that agreement would this stay be effective?

Mr McKinstry: I'm not sure the subdivision agreement would be applicable. I think it's when the municipality makes the agreement at either the subdivision or the redevelopment. It's when those two actions happen, when the approval of the subdivision or the approval of the redevelopment happens. Those would be the two key dates. If those have taken place prior to this legislation coming into force, then the old rules apply.

Mr Stockwell: I see.

Mr McLean: So if a municipality had a tentative agreement, an agreement in principle, there was so much for parkland or so much money in lieu of, and it was \$10,000 a lot or whatever, in principle, and yet there was nothing paid or it was only there as being in principle,

would that then be affected by a subdivision now and have these agreements tentatively approved in principle? Would that stay or would it not?

Mr McKinsty: I guess if the municipality could demonstrate that there was some agreement made—for example, a condition in the plan of subdivision—then in fact they would have the evidence to say, “We have made an arrangement here.”

The Chair: Other questions? Seeing none, all in favour of the motion? Opposed? That carries. Next, Mr Hayes.

Mr Hayes: I move that subsection 42(11) of the Planning Act, as set out in section 23 of the bill, be amended by striking out “fee” in the last line and substituting “amount.”

This amendment substitutes the word “amount” for “fee.” This is a technical, housekeeping amendment to the bill.

Mr Stockwell: Why is it a technical, housekeeping amendment to the bill?

Ms Elaine Ross: This was simply a drafting error, because if you’ll notice earlier on in the subsection, it refers to “amount,” and to be consistent we should have continued calling it an amount, but we called it a fee.

The Chair: Further questions? All in favour? Opposed? That carries.

All in favour of section 23, as amended? Opposed? That carries.

Section 24: Government motion, Mr Hayes.

Mr Hayes: I move that section 24 of the bill be struck out.

This amendment proposes to delete subsection 44(12) of the Planning Act relating to the minor variance system proposed by the bill. This is a consequential amendment as a result of the proposed amendment to restore the current minor variance system whereby appeals are heard by the Ontario Municipal Board. The amendment to this subsection is no longer needed. This is where we were actually eliminating people on minor variances going to the OMB, and we have put that back in because of the concerns we had at the hearings.

Mr Stockwell: Just a quick question: Can you tell me where in the bill itself you’d find that?

Mr Hayes: I don’t blame you.

Mr Stockwell: Because I read section 24 as—

Mr Hayes: Page 28.

Mr Stockwell: Yes, I’ve got section 24 as “Written decisions.”

Interjection.

Mr Stockwell: Subsection (12), right.

The Chair: Do you have a question, Mr Stockwell?

Mr McLean: Why are you taking it out?

Mr Stockwell: No, I guess the question I have, because the Chair wasn’t listening, is—

The Chair: The Chair was busy, Mr Stockwell.

Mr Stockwell: You’re always busy. You’ve got a pager; you must be a busy guy. Page 28, section 24.

The Chair: Thank God for the revolution. That’s really helping me out a lot. Go ahead.

Mr Stockwell: “Written decisions” I’ve got as section 24, Mr Chair. If you read his motion, he’s striking out section 24 of the bill.

The Chair: Yes.

Mr Stockwell: I go to page 28, section 24, and it has to do with “Written decisions.”

The Chair: That’s correct, yes.

Mr Stockwell: But that’s not what he’s talking about.

The Chair: Mr McKinsty, do you want to comment? Ms Ross?

Ms Ross: Section 24 of the bill was a technical amendment that was necessary because, originally, section 45 of the Planning Act had been changed so that council would be the decision-making body for minor variances. The government is now proposing to delete that change to the Planning Act, so we’ll go back to the old way, which is that committees of adjustment will be making the decisions once again, which means this section is no longer necessary. It was a complementary amendment we don’t need any more.

Mr Stockwell: Right. Clear as mud.

The Chair: While Mr Stockwell was speaking, I was checking with the clerk with respect to a way to deal with this procedurally, and Ms Bryce was suggesting the way to deal with this is to rule this out of order and people can, when dealing with the section, either support it or not. So what I would ask the members, if you are ready for the vote, is, “Shall section 24 carry?” and you will either support it based on what Mr Hayes has said, or not. Mr McLean?

Mr McLean: I’d like a clarification from the lady who said that section 24 has been deleted and we don’t need it any more. What section is taking its place?

Ms Ross: There isn’t a section that will be taking its place, but when we get there, it’s in section 45. There’s a proposed government motion which will change Bill 163 so that the committee of adjustment is once again making the decisions. So the next motion, on page 91, is going to make that change.

Mr McLean: So you went back to the old method where every municipality will now have a committee of adjustment again? I thought that the council could be the one who would make that decision.

The Chair: Ms Ross, you’re confirming his question in the affirmative?

Ms Ross: What the government is proposing to do is to delete the new section 45, which was the section that gave decision-making to council. What will happen is the old section 45 of the Planning Act will return, and that means committees of adjustment will once again be the decision-making body for minor variances.

Mr McLean: So the question I had was, will every municipality now have a committee of adjustment?

Ms Ross: It’ll be the same as the status quo. You have to have a committee of adjustment before you have the minor variance power and you appoint your committee of adjustment.

Mr McLean: But I understood there was somewhere in here where councils were going to be able to do that.

Ms Ross: That was in the original Bill 163, and the government will be proposing a motion to amend that on page 91.

Mr Stockwell: But the question is, councils always had the right to be their own committee of adjustment, did they not? They could hear minor variances.

Ms Ross: Yes, they could be the same. They could be one and the same. That's right.

Mr Stockwell: Thanks.

Mr McLean: So you're going back to the old way.

Mr Hayes: Actually, it's not changing.

Mr Stockwell: Right. So you're moving an amendment to wipe out the motion.

The Chair: I was ruling that procedurally that's out of order in terms of how it's worded. What I would ask you now, in terms of how to vote on this, is I will ask you, "Shall section 24 carry?" and Mr Hayes will obviously vote against that section.

Mr Stockwell: You're brilliant.

The Chair: Mr Stockwell, I appreciate your support. Thank you for being here. Shall section 24 carry? All in favour? Opposed? Okay. That is defeated.

Section 25, Mr Hayes.

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Mr Hayes: "I move that section 25 of the bill be struck out and the following substituted:

"25(1) Subsection 45(5) of the act is amended by striking out 'agencies' in the third line and substituting 'public bodies.'

"(2) Subsection 45(12) of the act is repealed and the following substituted:

"Appeal to OMB

"(12) The applicant, the minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the municipal board against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the municipal board under the Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the board."

(3) Subsection 45(14) of the act is amended by striking out "thirty" in the first line and substituting "20."

(4) Subsection 45(15) of the act is amended by striking out "by the persons who gave notice of appeal" in the second and third lines.

(5) Subsection 45(16) of the act is amended by adding after "persons" in the sixth line "or public bodies."

(6) Subsection 45(17) of the act is repealed and the following substituted:

"Dismissal without hearing

"(17) Despite the Statutory Powers Procedure Act and subsection (16), the municipal board may dismiss all or

part of an appeal without holding a hearing, on its own motion or on the motion of any party if,

"(a) it is of the opinion that,

"(i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the board could allow all or part of the appeal,

"(ii) the appeal is not made in good faith or is frivolous or vexatious, or

"(iii) the appeal is made only for the purpose of delay,

"(b) the appellant has not provided written reasons for the appeal;

"(c) the appellant has not paid the fee prescribed under the Ontario Municipal Board Act; or

"(d) the appellant has not responded to a request by the municipal board for further information within the time specified by the board.

"Representation

"(17.1) Before dismissing an appeal, the municipal board shall notify the appellant and give the appellant an opportunity to make representation in respect of the appeal and the board may dismiss an appeal after holding a hearing or without holding a hearing on the motion, as it considers appropriate."

(7) Subsection 45(18.1) of the act, as enacted by the Statutes of Ontario, 1993, chapter 26, section 56, is amended by striking out "agencies" in the fifth line and substituting "public bodies."

(8) Subsection 45(18.2) of the act, as enacted by the Statutes of Ontario, 1993, chapter 26, section 56, is amended by striking out "agency" in the first line and substituting "public body."

This amendment deletes sections 45 and 45.1, the minor variance sections of the bill. Concerns were expressed at the hearings that not permitting an appeal to the Ontario Municipal Board would be a denial of natural justice and would not reduce the board's workload significantly, and the deletion of the two sections from the bill would restore an appeal system to the board on minor variances.

Mr Stockwell: One of the points that disturb us about this piece of legislation, as I recollect, by the minister, Mr Ed Philip, and of course Mr Sewell himself, was that you insisted on trying to delete the workload of the Ontario Municipal Board, to the parliamentary assistant.

Some of the things that you said would reduce it were to get rid of the minor variances. You said they used up a lot of time of the OMB. You said it was time-consuming, many were frivolous and vexatious and they weren't being dealt with as frivolous and vexatious.

It seems to me that you're trying to cut down the time it takes to get to the OMB. One of the big deals was you were going to cut it down by getting rid of the minor variance portion of it, and now it's back in.

Ms Christel Haeck (St Catharines-Brock): We've already dealt with this in committee, you know.

Mr Stockwell: And now it's back in, I say through you, from the member for St Catharines, through you the Chair, through you to the parliamentary assistant.

Interjection.

Mr Stockwell: I hear her cackling again. I'm certain it's her. I recognize the pecking.

The Chair: Mr Hayes is about to answer.

Ms Haeck: Too bad you weren't here. It was really exciting.

Mr Stockwell: I can imagine if you were here, it was exciting.

The Chair: And we're ready to answer your question through Mr Hayes.

Mr Hayes: I think the member raises a good point. The fact of the matter is that yes, indeed, we felt that by doing this it would help to streamline the process, but in a large majority of the presentations that were made, people were very much concerned about this. Some of the municipalities, for example, did not want to make that final decision and then on the other hand you had other people saying that their basic rights were being taken away from them.

There was a lot of discussion in committee and from presentations and we felt that there were a lot of presentations that felt that the work of Dale Martin, for example, has really cut through a lot of the red tape and helped with some of the planning decisions in municipalities and that is cut back considerably, and we felt that it really wasn't worth doing that by taking people's rights away. So that's really where we're at on this today.

Mr Stockwell: One of the few things I was applauding about this bill was this portion of it. I think it's absolutely insane that the Ontario Municipal Board hears things like the air-conditioning unit is six inches over the line, and that the driveway is four inches over the side yard setback.

One of the few things I think Sewell was right about and maybe Mr Philip, and I say that carefully, was this portion. I think it's absolutely insane to have the OMB, a costly process, hearing arguments and hearing cases just like two I've described.

I'm going to go on the record, and I'm certain that others may agree on this side of the table, I'm not sure, but it seems that if there was any place to cut down the backlog at the OMB, it's these kinds of frivolous, vexatious neighbour fights that end up at the minor variance stage and can easily be decided there and through to council.

So I'm greatly disappointed, because the costs are excessive and I don't believe people's rights are being usurped, simply because I think committees of adjustment and councils can deal with these kinds of things. To take these to levels of provincial stature, in my opinion, is costly, excessive, and I'm really disappointed that the Sewell sorts and the NDP couldn't see their way clear to making this kind of decision.

Mr Hayes: What we're doing here, Mr Stockwell, is in fact what you are asking us to do. I can tell you right now: Right at the beginning of this thing, when we talked about not allowing minor variances to go to the OMB, I thought it was the greatest thing and I felt the same way that you do today on that, but at the same time what we're doing in this bill now is that we are allowing the

Ontario Municipal Board, which they don't have that power now, to any of these vexatious or frivolous—

Mr Stockwell: That's wrong.

Mr Hayes: —or just for the purpose of delay, they can just automatically dismiss.

Mr Stockwell: On a point of order, Mr Chair: The Ontario Municipal Board can dismiss any hearing as frivolous and vexatious. Ask Dale Martin, because he was dismissed once by the board on the railway lands. They can dismiss anything as frivolous and vexatious.

The Chair: It's a point.

Mr Stockwell: It's an actually correct point.

Mr Ron Eddy (Brant-Haldimand): That's correct, what Mr Stockwell is stating. The problem—

The Chair: I'm sorry. Hold on. I'm sorry.

Mr Eddy: Hold on? I haven't let go.

The Chair: Mr Hayes, do you want Ms Ross to continue answering that question?

Mr Hayes: Yes.

The Chair: Go ahead, please. Mr Eddy, we'll come back to you, okay?

Ms Ross: Right now, for minor variances, the board has the legal ability to dismiss where they feel they're insufficient. The way that's been interpreted is rather procedural so they're looking for a procedural insufficiency rather than a substantive insufficiency, so that this gives them additional powers.

Mr Stockwell: Just quickly, and I don't want to interrupt Mr Eddy too much, but briefly to finish the point. The bottom line is the OMB has had the right to dismiss for frivolous and vexatious—they've never exercised that right. Now, you can tell me you can put those rights in again; they don't use them. I'll tell you they have certain fears about dismissing things as frivolous and vexatious because they're concerned about personal and property rights.

You people have to tell them to dismiss them or not hear them; otherwise they won't dismiss them because they have very real concerns of personal and property rights that they're supposed to be hearing as the court of last resort.

Mr Grandmaître: Can I make a—

The Chair: Hold on, Mr Grandmaître. I'm not sure whether there's a response; if not, we'll move on. No? Okay, Mr Eddy and then Mr Grandmaître.

Mr Eddy: I'm sure that Mr Grandmaître will want to speak first too like everybody else—

The Chair: Mr Grandmaître then.

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Mr Grandmaître: One question: Didn't the minister have this power and not the OMB? Am I correct in saying this, that the minister had this power and not the OMB?

Ms Ross: With minor variances, nobody has the power. The OMB has the power to find it insufficient. The minister has the power, with respect to official plans, to find it frivolous and vexatious and not refer it for that purpose.

Mr Grandmaître: Official plans but not minor variances.

Ms Ross: No. The minister isn't involved in minor variances.

Mr Stockwell: You're wrong.

The Chair: Hold on, Mr Stockwell. We'll come back to you in a moment.

Mr Eddy: I'm certain that the OMB has had and does have the power to declare an appeal "frivolous." Certainly that word has been around for quite some considerable time. I think the point is, as Mr Stockwell states, that the OMB has not exercised that. In fact, when inquiries were made to the OMB about why it didn't—I guess we have all seen very frivolous appeals to the OMB, especially on minor variances, absolutely frivolous, to the extent of saying: "I don't want to look out my kitchen window and see anything on that land. It's open and that's the way I want to leave it." But the OMB wouldn't do that. What they would reply is, "It's up to the council to do that and then we will consider the council's decision." So it just hasn't worked.

The next amendment that will be presented is a Liberal amendment to indeed allow that. We think it's necessary simply because there's been no definition of a minor variance. Indeed that's why we're returning to the OMB to deal with appeals. What many applications term "minor" variances aren't minor variances, but it's unfortunate that true minor variances have to go to the OMB. Certainly the citizens and various groups from across the province who appeared before the committee were really concerned about the fact that minor variance decisions could no longer be appealed to the OMB and therefore there would be some major decisions made.

The Chair: Is there any response to the comment?

Mr Hayes: No.

Mr Grandmaître: Will we have a definition of what a minor variance is?

Mr Eddy: It should be subject.

The Chair: Mr Stockwell, you wanted to comment earlier. Do you have anything?

Mr Stockwell: No. I've completely talked myself out on this one.

The Chair: We're ready for the motion. All in favour of Mr Hayes's motion? If I don't see hands, I'm assuming they're up. Is that it? Opposed? That carries.

Mr Stockwell: You only did one thing right in the whole bill, and then you screw this one up.

The Chair: The next one is a Liberal motion, which may or may not conflict with what has been passed just a moment ago.

Mr McLean: I have one before that, Mr Chair.

The Chair: I'm not sure we have that.

Mr McLean: Section 25. Do you have a copy of this?

The Chair: Is that page 92, Mr McLean?

Mr McLean: There's no number on it.

The Chair: Mr McLean, if you have a motion, I'm not sure—

Mr McLean: I have one here that's typed out. I don't

know whether it's been passed around or whether anybody has it. It's that "section 45 of the Planning Act, as set out in section 25 of the bill, be amended by adding the following subsection." I haven't seen it in any other bill.

The Chair: Would you read that very carefully, Mr McLean.

Mr McLean: I move that section 45 of the Planning Act, as set out in section 25 of the bill, be amended by adding the following subsection:

"(14) In respect of a municipality in northern Ontario, as defined in section 1 of the Development Corporations Act, the applicant, minister or any other person who has an interest in the matter may appeal a decision under subsection (10) or subsection 45.1(15) to the Ontario Municipal Board."

The Chair: Mr McLean, I think the best thing to do is to photocopy that immediately and circulate it so that everybody has the benefit of the wording.

Mr Stockwell: It's housekeeping, really.

The Chair: We will just pause for a moment.

Mr Grandmaître: A pause?

The Chair: Rather than recessing.

Mr McLean: With regard to this amendment to section 45 of the bill, everybody's got a copy. I understand it's probably redundant, but I wanted to put it forward anyway and have some debate. What I wanted to do, with respect to the municipalities in northern Ontario, was not have them come under this section; I thought they should be exempt. We were in the north, and people up there feel there's a difference and that they can run their affairs a lot better than having them run out of Toronto. They want to make the decisions up there. I felt they should have the right to do it, and that's why I brought in this amendment.

Mr Stockwell: I support the PC motion with respect to northern Ontario feeling they can run their affairs better than the people in Toronto, particularly at Queen's Park. I think there are people in Toronto who feel the north can run their own affairs better than the people in Toronto, so I will support on the same basis.

The Chair: Let's get an opinion from Ms Mifsud.

Ms Lucinda Mifsud: By talking with the municipal lawyer, I gather what they were going to change was going to take away an appeal. But they've cancelled that by the previous motion, so now everybody has an appeal, including northern Ontario. It is redundant, and I think your purpose has been achieved.

Mr Stockwell: Good work, Al.

Mr Hayes: Put that out in your householder.

The Chair: Mr McLean, based on what you heard, it would be proper for you to withdraw that motion, I suppose.

Mr McLean: I would think that should have been voted on to make sure northern Ontario—

The Chair: But if you've achieved what you wanted, it's already there. You don't need a motion to do what's already there.

Mr Stockwell: I think we should vote on it. It's properly before the committee.

The Chair: Mr McLean, either you withdraw it or I'll rule it out of order.

Mr Stockwell: Oh, heavy-handed. Go ahead and rule it out of order.

Mr McLean: I guess we'll have to make that decision.

The Chair: It's a tough one, Mr McLean, but we can deal with it. What you're asking for is already there, Mr McLean, so it's easier to withdraw it.

Mr McLean: I'd sooner have a vote on it.

The Chair: Mr McLean, I think that motion is out of order.

Moving on—

Mr Stockwell: You're ruling it out of order then?

The Chair: Yes, I have done so.

Mr Grandmaitre, it applies equally to your motion. Either you withdraw it or I will rule it out of order.

Interjections.

The Chair: You want to move it and then you withdraw it?

Mr Eddy: No. Mr Chair, I think you're superseding me.

The Chair: I wouldn't want to do that. Go ahead, Mr Eddy.

Mr Grandmaitre: Ours is different, Mr Chair.

Mr Eddy: I move that section 45 of the Planning Act, as set out in section 25 of the bill, be amended by adding the following subsection:

"(14) The minister may, by regulation, prescribe types or classes of minor variances for which appeal may be made to the Ontario Municipal Board and may prescribe notice and other requirements in respect of the appeal."

The last part of that is probably redundant. But the reason we've submitted this is that we heard from many groups and individuals during the hearings to the effect that we must have appeals of minor variances go to the OMB. Why were they all asking that? They were asking it simply because many people could give instances of "minor" variances that were not minor in any way. They said that actually major changes get through under the guise of being minor variances. That's because there's no definition of a minor variance.

I think we do need to face this matter. If we face this matter at this time and let types or classes of minor variances be prescribed by the minister, over a period of time perhaps we may get to the place—will get to the place, I would hope—sometime in the future where minor variances don't need to go on and people would not be able to say, "We have to have in place appeals of minor variances to the OMB simply because many of them are not minor."

It's been pointed out to us that there are various types of minor variances. One is, of course, the matter of distances, but there are many others. It's a complex matter, and I would hope we could approve of this amendment to be placed in the appropriate section of the

new act so that indeed at some time this matter could be faced and minor variances would indeed become, in all cases, in the future, minor variances—with emphasis on the "minor," because that really is a problem.

It is a different matter from Mr McLean's motion, and it's not dealt with; his is dealt with in another matter. In order to give the staff and the ministry time to consider this, I would stand it down at this time.

Mr Stockwell: I'd just like to speak to it very briefly.

The Chair: You do that, because by the time you speak to it, we'll have an opinion. We're well able to deal with it in the time.

Mr Stockwell: Let me just say, Mr Chair, through you to the legal staff as well, that I don't think this is out of order, and let me tell you why it's not out of order.

What you have gone to, in my opinion, is the old rules and regulations with respect to minor variances, which means that what you've adopted—and bear with me on this—is that any minor variance may be appealed. What this does is offer a guideline to the old rules. Now any minor variance may be appealed, but what this says is that not any minor variance may be appealed; it can only be appealed once the minister has set out types or classes of minor variance that may be appealed.

So in essence this is not out of order. What the member is suggesting is that the minister set down types and classes of appeals that may go forward, that they're defined as classes; therefore he is changing the legislation as it is today because of the motion of withdrawal that you and your party just moved, which took us back to the old days when anything could be appealed. So this is in fact properly before us.

Further, I would add that I will support this, because any limitation on the number of minor variances that may be appealed to the OMB I think is healthy and cost-efficient for the taxpayers in this province. It does what I wanted to do in the first place: It gets rid of these vexatious and frivolous applications and only allows minor variances that meet the guidelines to go forward to the OMB.

1700

Mr McLean: Now can we have the ministry's opinion?

Ms Mifsud: I'm just looking at it from a numerical point of view. Having reverted now back to the Planning Act and not changed anything, this doesn't quite fit into how that section worked. I think the counsel for Municipal Affairs might be able to tell you the substantive point of view, because I'm not as familiar. I've been looking at, like you, the amendments rather than how it originally read. Certainly, it was meant to fit into the bill and not the original, and I just don't feel certain at this point that it works numerically or even logically. Perhaps the municipal solicitor, Ms Ross, who's more familiar with the substance, can elaborate on that.

Ms Ross: If you were going to fit it into 45(14), you'd be replacing the section that says if no one appeals it's final and binding, so you'd need to put it somewhere else. But even if you did that, section 45 already says everyone can appeal, so it wouldn't really work. You'd

have to rewrite the section to say no one can appeal unless they're prescribed by regulation and then set out a process for those other people who couldn't appeal, like we have done in section 45 and 45.1.

Mr Stockwell: You're arguing the technical merits of it. Really, to rule it out of order, you have to say it's out of order because it's not properly before us. And I say to you, Mr Chair, this is properly before us. Technically it may be somewhat flawed, but it is properly before us.

The Chair: Part of the legal advice is to help us with motions, to make it clear whether they are in or out of order. If we don't have that opinion, we'll deal with it as a motion.

Mr Eddy: I think it could be worded and inserted in the proper place in the bill. As legal counsel has said, because of the change we've made back to the present situation, anyone may appeal a minor variance. What we need to look at is an additional feature in the bill, for instance, "except where the minister has prescribed" etc.

Because of the technical problem, I'd be prepared to stand it down at this time and give it further thought so that with the correct wording it could still be inserted, so that the minister may at sometime in the future proceed. I think if we don't do it now, we will be faced with it sometime in the future. But I agree, we're in no position to pass it now. Let's make sure it's the correct wording and in the correct place.

The Chair: Can we stand that down, Mr Eddy, so it will give us an opportunity to look at that?

Mr Eddy: I would ask that, yes, please.

The Chair: All in favour of standing that down? Okay.

Moving on to section 26.

Mr Hayes: I move that subsection 26(2) of the bill be struck out, subsection 47(2) of the Planning Act.

This amendment deletes subsection 47(2) of the act from the bill as the proposed minor variance system is to be removed and the current appeal system restored. This is a consequential amendment as a result of the proposed amendment to restore the current minor variance system whereby appeals are heard by the Ontario Municipal Board.

Mr McLean: What we're doing then is going back so that minor variances will all be heard by the OMB if they're appealed to the OMB. There's nothing that's going to be dealt with now by a committee of a council or an appointee of council. What's going to happen with regard to a regional council where they wanted to be able to appoint somebody to look after their minor variances? Will that be redundant now?

Mr McKinstry: Regional councils do not now have the power to enact zoning bylaws or to grant minor variances and we haven't changed that. It's a local council's responsibility to enact zoning bylaws.

Mr McLean: What about the power that was to be given to the region with regard to official plans, with regard to the minor variances? I thought they were going to have the power to appoint somebody on staff who would deal with minor variances.

Mr McKinstry: What we did in some of our other motions was allow the regions that will be assigned certain powers, for example subdivision approval, to subdelegate that to an officer or a committee of council or a staff member. So that's for subdivisions or official plan approvals.

Mr McLean: But nothing for minor variances now?

Mr McKinstry: No, because a regional council does not have that power to enact zoning bylaws.

Mr McLean: So every regional municipality now will have to have what they call a committee of adjustment?

Mr McKinstry: No. Every local municipality will need one if they want to grant minor variances but, as was mentioned earlier, it could be council itself. They could constitute themselves as a committee of adjustment. So it has always been a local power, a local decision.

Mr McLean: Well, what would happen in the region of York, for instance?

Mr McKinstry: Zoning would be the purview of the different local municipalities, so it wouldn't be the region. The region would have a planning—

Mr Hayes: This does not change it.

Mr McKinstry: No.

Mr McLean: So it's the same as it is now.

Mr Hayes: Yes. Nothing has changed.

Mr McLean: But the original bill was changing it. The original amendments were changing it. They were taking the minor variances power out.

Mr Hayes: That's right.

Mr McLean: You've put it all back in now.

Mr Hayes: Yes.

Mr Grandmaître: But that same bylaw from the local municipality would have to be accepted by a regional government, to be part of the official plan, for instance. Right?

Mr McKinstry: Not quite. Zoning bylaws implement official plans.

Mr Grandmaître: Local official plans.

Mr McKinstry: So the region would have an official plan, the local municipality would have an official plan and the local municipality would have a zoning bylaw.

Mr Grandmaître: But the local zoning bylaw would certainly complement the official plan. Right?

Mr McKinstry: It would have to conform to both the local and the regional official plans.

Mr Grandmaître: That's right. So what I'm saying is, the regional municipality will have to take a vote on that local zoning plan. Right?

Mr McKinstry: The region does not get to approve it.

Mr Grandmaître: No, no, not approve it, but vote on it.

Mr McKinstry: They can appeal it.

Mr Grandmaître: Yes, they can appeal it.

Mr McKinstry: They can appeal it if they want, but there would be no mechanism by which they actually took a vote or approved it. It's not their bylaw. They

might decide to appeal a part of it.

Mr Grandmaitre: At what stage, though, can the regional municipality appeal?

Mr Hayes: Twenty days.

Mr McKinstry: Yes. It's 20 days after the local municipality has adopted it before it comes into force.

Mr McLean: You're really confusing the bill now. All these people that we have had before us, all these delegations, are mixed up worse than what this committee is.

The Chair: Any comment on that? As he's making a comment, I'm wondering whether there's another comment.

Mr McLean: Is my comment right or wrong?

Mr Hayes: A real quick answer to that: Yes, you're wrong. The thing is, if we were not going to allow minor variances to go to the OMB—because of the public hearings and because of the number of people who've come forward, organizations and individuals, who said that should not be done because you're taking people's rights away from them, we have listened to the public and we have decided that we will not do that, even though it looked good initially.

Mr Bill Murdoch (Grey-Owen Sound): Great. Check off one for you guys. The first time you've listened.

Mr Hayes: No. We've listened a lot and we have acted.

The Chair: I think we're ready for the vote. All in favour? Opposed? That carries.

1710

Mr Hayes: I move that subsection 47(8.2) of the Planning Act, as set out in subsection 26(4) of the bill, be amended by adding after "refuse to" in the first line "accept or".

This amendment provides that the minister may also refuse to accept an application to amend a zoning order if the prescribed information is not submitted. The bill allows the minister to refuse further consideration and it should be clarified that the minister also has the authority to refuse to accept an incomplete zoning order application. The refusal to consider is contingent on the prescribed information, not additional information which the minister may ask for.

The Chair: Questions or comments?

Mr Hayes: Very straightforward.

Mr McLean: What do you mean by "accept or"? Where is that going in? Is that going in "Refusal to consider," (8.2)? Is that where that amendment is going in, or are you amending (8.2) by adding after "refuse to" in the first line "accept or"? I don't see "accept or" in here at all now.

Ms Ross: What we're doing is amending (8.2) so that it would read, "The minister may refuse to accept or further consider a request" etc.

Mr McLean: He may refuse to accept or consider?

Ms Ross: "To accept or further consider." This is similar to some amendments that we did already in the official plan section.

Mr McLean: They weren't very clear either.

The Chair: Mr McLean, are you on page 33?

Mr McLean: Yes.

Mr Murdoch: We only have one here.

The Chair: Mr McLean, further?

Mr Murdoch: He's still confused.

The Chair: Anything further?

Mr McLean: No.

The Chair: Okay. All in favour of the amendment?

Mr Eddy: Mr Chair, are those words inserted in the right place? Would you read what the amendment is?

Ms Ross: Okay, I'll read it through again.

Mr Eddy: Sorry, if you wouldn't mind.

Ms Ross: So (8.2) reads, "The minister may refuse to accept or further consider a request under subsection (8) until"—

The Chair: Thank you, Ms Ross. All in favour of the motion? Opposed? That carries.

We now have a Liberal motion in front of us.

Mr Eddy: This is re section 26 of the bill. I move that subsection 47(11) of the Planning Act, as set out in section 26 of the bill, be amended by adding the following clause:

"(c) the person or public body refused to participate in good faith in alternative dispute resolution techniques under section 65."

I don't think that needs much explanation. We've discussed the importance of alternative dispute resolution techniques many times during the committee. It seems that we're all strongly in favour of them and that they should be used and applicants should be required to use them, so we're proposing the change.

Mr McLean: Could I have some clarification from the ministry? What is the difference between the one that we just passed, "The minister may refuse to accept or further consider a request"—it says "The minister may refuse to refer a request under subsection (10) to the municipal board." So what are you doing? You're adding already to what the minister may refuse to accept?

Mr Eddy: The reason, of course, is failure by someone to participate in the alternative dispute resolution process, which, I think most of us agree, would save time.

The Chair: Let me see if there's a staff comment on Mr McLean's question.

Ms Ross: The earlier section, (8.2), dealt with the requirement that the minister deal with an application before it's complete. What it's really talking about is ensuring that all of the prescribed information has been received before the application has to be dealt with, whereas I think Mr Eddy's amendment deals with the requirement to refer it. You've been processing it and then they're talking about the referring to the Ontario Municipal Board as opposed to processing by the ministry. It's as clear as mud.

The Chair: Okay? All in favour of—Mr Hayes?

Mr Hayes: No comment, I just don't agree with it.

The Chair: All in favour of Mr Eddy's motion? Opposed? It's defeated.

The next motion is identical to this. Mr McLean, I presume you're not moving it?

Mr McLean: Seeing that we were not successful with the previous one, I hate to have to say it, but I guess that I would have to withdraw the amendment that we have.

The Chair: Thank you, Mr McLean. Government motion, Mr Hayes.

Mr Hayes: I move that subclause 47(11)(a)(iv) of the Planning Act, as set out in subsection 26(7) of the bill, be struck out and the following substituted:

"(iv) the proposed amendment is premature because the necessary public water, sewage or road services are not available to service the land covered by the proposed amendment and the services will not be available within a reasonable time."

The bill allows the minister to refuse a referral request based on a number of grounds, including the prematurity of development application. The amendment to the amendment would clarify that a matter is premature if water, sewer and road services will not be available in the near future for the application which is dependent on these services.

There was a concern expressed by the development industry and the Canadian Bar Association that the power to dismiss without a hearing on the basis of prematurity could be misused if the meaning of the term was not clarified. So people were asking for clarification on prematurity and I believe we've done so here.

Mr Eddy: I'm just wondering what effect this clause will have on the OMB, because the OMB has indeed on many occasions rendered decisions ordering municipalities to rezone and include approved developments and ordered the municipality to provide for it.

Mr Hayes: I believe the answer to that will be on the next amendment, which is similar to this but deals with the Ontario Municipal Board.

Mr Eddy: Okay, thank you.

The Chair: Other questions or comments? Seeing none, all in favour of the motion? Opposed? That carries.

Mr Hayes: I move that subclause 47(12.1)(a)(iv) of the Planning Act, as set out in subsection 26(8) of the bill, be struck out and the following substituted:

"(iv) the proposed amendment is premature because the necessary public water, sewage or road services are not available to service the land covered by the proposed amendment and the services will not be available within a reasonable time."

This bill allows the Ontario Municipal Board to dismiss an appeal without a hearing, based on a number of grounds, including the prematurity of development applications.

Mr Grandmaître: What's the difference between them?

Mr Hayes: One is dealing with the minister and the other one is dealing with the municipal board.

Mr McLean: Could you define "a reasonable time"?

The Chair: Mr McKinstry: "a reasonable time."

Mr McKinstry: I think it would depend on the individual facts of the case, but our view was that it would be a reasonable time for development to take place, so if services would not be available within some reasonable development kind of period. For example, if services were not in the municipality's servicing plan, were not a part of the official plan strategy, then you could say that they would not be available in a reasonable time because they would not be available in the planning period of the official plan.

Mr McLean: How would it get that far if there weren't services there in the first place to deal with a plan when the municipality knows it's going to have to have services? How would it even get temporary approval?

Mr McKinstry: What we're saying here is that there are some development applications brought forward which municipalities do not support; there are no services. But there's really no way of getting them out of the system, so they have to go all the way through the system, including the municipal board, even though everybody knows they're not going to be successful. This is a way of getting proposals dismissed which do not have any chance of success.

The Chair: Further? Okay, I think we're ready for the question. All in favour of the motion? Opposed? That carries.

1720

Mr Hayes: I move that section 26 of the bill be amended by adding the following subsection:

"(8.1) Subsections 47(15) to (17) of the act are repealed."

The government has come to believe that retaining the declaration of provincial interest is inconsistent with the new planning system where municipalities make decisions and the OMB resolves disputes. It is therefore proposing to remove the right of cabinet to review and change decisions of the OMB.

Mr McLean: What number is that one?

The Chair: It's 99a, section 26 of the bill.

Mr McLean: We don't have 99a.

The Chair: I think it's part of the new additions you were given earlier on.

Mr Hayes: It's not new today, no.

Mr Grandmaître: No, it's in the old package.

The Chair: It was new in the old package. Any questions from the other members in the meantime? Mr McLean, questions or comments?

Mr McLean: No.

The Chair: All in favour of the motion by Mr Hayes? Opposed? That carries.

All in favour of section 26, as amended? Opposed? Okay, that section carries.

We're on a new section now, government motion 26.1.

Mr Hayes: I move that the bill be amended by adding the following section:

"26.1 Section 48 of the act is amended by adding at

the end 'or of a bylaw passed by a planning board under section 34 or 38.'"

The bill empowers planning boards in northern Ontario to pass zoning bylaws. Currently licences or permits cannot be granted if the proposed use does not conform to the minister's zoning order. It should be extended to zoning bylaws passed by planning boards to cover unorganized territories.

Mr McLean: What number is that?

The Chair: New section 26.1.

Mr McLean: Is that what it is? "I move that the bill be amended by adding the following section: 26.1"—

The Chair: Yes.

Mr McLean: You went on and read a lot more after you did that.

Mr Hayes: I was explaining it.

The Chair: Do you want him to speak to that again, Mr McLean?

Mr McLean: Move right on.

The Chair: All right. All in favour of this motion? Opposed? This section carries.

Section 27: A government motion.

Mr Hayes: I move that section 50 of the Planning Act, as set out in subsection 27(2) of the bill, be amended by adding the following subsections:

"Delegation

"(1.4) If an order is made under subsection (1.1) in respect of land that is located in a municipal planning area, the minister may by order delegate to the municipal planning authority the power which was removed from the council to grant consents, to give approvals under subsection (18) or to issue certificates of validation and the delegation may be subject to such conditions as the order provides.

"Effect of revocation

"(1.5) If the minister revokes the order or part of the order made under subsection (1.4), the power of the municipal planning authority to grant consents, to give approvals under subsection (18) or to issue certificates of validation reverts back to the minister in respect of all applications to which the revoked order or revoked part of the order applies and the municipal planning authority shall forward to the minister all papers, plans, documents and other materials that relate to any matter to which the revoked order or part of the order applies and of which a final disposition was not made by the municipal planning authority before the order or part of the order was revoked."

Currently, the bill provides that council assigned with the consent granting power may delegate its power to a municipal planning authority. However, where the minister has removed consent granting power for the council, there is no provision to allow the minister to delegate the consent granting power to a municipal planning authority. This motion would give the minister the power to delegate to a municipal planning authority where he or she has removed the consent granting power from the council.

Mr Murdoch: Why would he or she have removed it?

Mr Hayes: "He or she"? You're talking about the minister.

Mr Murdoch: The minister. You're saying he or she, so that's fine, I can too.

The Chair: Mr Hayes, do you have a comment?

Mr Hayes: I just did.

The Chair: Mr McKinstry, do you and staff—

Mr Murdoch: I'm just saying that now they're giving it back. Can you explain this?

Mr McKinstry: The bill as it's written now gives the minister the power to withdraw consents or subdivisions. There are no criteria, obviously, in the act. What we're saying here is that if there's a municipal planning authority, it may be a good idea to give the consent granting authority to the municipal planning authority, because it's doing the planning for a few municipalities and it may be better there than at the county. It's simply a way of getting there, if everybody agrees.

Mr Murdoch: So if a municipality would like to do its own, it has to approach the minister and the minister can give it that power. That's what I'm saying.

Mr McKinstry: The county can also delegate directly to a municipal planning authority.

Mr Murdoch: There don't seem to be any criteria. This is sort of pulled out of the blue here. I'm just trying to understand. I'm a municipality: Now I want to do my own subdivisions, and you're saying approach the minister and the minister can do it, that this subsection will allow them to do that. But are there not criteria here?

Mr McKinstry: This is just consents, right? Right now in the existing Planning Act a county council can delegate to a lower-tier municipality. There are no criteria in the act. It's a power, if they want to do that.

Mr Murdoch: Well, they must have an official plan within the county in order first to have the power to give consents.

Mr McKinstry: No. The act gives consent granting authority to counties.

Mr Murdoch: Okay. I'm sorry. This looked like it was just pulled out of the air, and I'm trying to understand it. As I see it now—let's look at the county of Grey. They have consent authority because they have an official plan.

Mr McKinstry: No, they have it because the act gives it to them, assigns it directly to them.

Mr Murdoch: I didn't think they got that unless they had the official plan. Then the minister would give it to them.

Mr McKinstry: Not consents. Consents they get as of right.

Mr Murdoch: Why were they given the consents? Just because the minister at some point decided they should do that? Is that what you're saying?

Mr McKinstry: The act gave it to them in 1983. It was a decision then to give consents to all upper-tier municipalities.

Mr Murdoch: But then, for them to give it to townships, they had to have official plans. Am I right on that?

Mr McKinstry: They had to have the minister's approval, and the minister may have said before giving approval—I don't know this, but the minister could have said, "There should be an official plan before you do that."

Mr Murdoch: He didn't have to say that, though. If the county had decided to give it to a lower-tier, if the minister had agreed, they could have done that?

Mr McKinstry: That's right.

Mr Murdoch: Okay. Now at this point you're just saying you still do that.

Mr McKinstry: They can still do that, but then they could give it to the municipal planning authority or the minister could withdraw it from the county and give it to the municipal planning authority.

Mr Murdoch: Can the minister not now withdraw it from the county?

Mr McKinstry: No.

Mr Murdoch: He can't. So now we're giving the minister some more power here, right?

Mr McKinstry: That was in the bill, and this motion simply says, if the minister withdraws it, according to the bill, the minister can give it to the municipal planning authority.

Mr Murdoch: And he couldn't before, unless we had changed this.

Mr McKinstry: That's right.

Mr Murdoch: So the way the bill was before, if the minister had decided a county shouldn't get consent power, withdrew it, which the bill had given him permission to do, there was no way of giving it back?

Mr McKinstry: The minister could have given it back to the county, but couldn't have given it anywhere else.

Mr Murdoch: Jeez, how did we get so screwed up here? I can't believe it.

Mr Hayes: It took many years.

The Chair: Mr Murdoch, do you—

Mr Murdoch: No, I'm just figuring out loud. There's something wrong. This is stupid.

1730

The Chair: Other questions? All in favour of this motion? Opposed? That carries.

Mr Hayes: I move that subsection 27 of the bill be amended by adding the following subsection:

"(7) Subsection 50(18) of the Planning Act, as amended by the Statutes of Ontario, 1993, chapter 26, section 58, is amended by striking out 'or' after clause (a) and by adding the following clauses:

"(c) the identical parcel of land that has been the subject of a consent to convey given under section 53 and the consent did not stipulate that subsection 50(3) or (5) applies to any subsequent conveyance or transaction; or

"(d) the whole of the remaining part of a parcel of land, the other part or parts of which parcel have been

the subject of a consent to convey given under section 53 and the consent did not stipulate that subsection 50(3) or (5) applies to any subsequent conveyance or transaction."

I think it's quite self-explanatory. Currently, lots in registered plans of subdivision that are subject to foreclosure or power of sale do not require council's or the minister's approval. Lots created by consent which are subject to foreclosure should also be exempt from approval requirements. That's clearer yet.

The Chair: Questions or comments? All in favour of this motion? Opposed? It carries.

All in favour of this section, as amended? Opposed? That carries.

Section 28: a Liberal motion.

Mr Eddy: I move that subsection 51(1) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"51(1) If land is in a local municipality that is in a county, other than a city, and that forms part of a county for municipal purposes,

"(a) the council of the county is the approval authority for the counties of Bruce, Grey, Hastings, Huron, Lambton, Oxford, Prince Edward, Victoria and the county of Wellington;

"(b) the council of the county is the approval authority on the day the minister approves all or part of an official plan for the county of Peterborough or any other county;

"(c) the council of the county is the approval authority on the day the minister prescribes the county under subsection 17(7);

"(d) the minister is the approval authority in all counties without approved official plans or which have not been prescribed under subsection 17(7)."

This matter was discussed, as members of the committee who were on the hearings will recall, by county after county after county delegation, who came before us pointing out that counties should be considered somewhat equitably with the regions, especially those counties that have planning departments, official plans and have decided that they will have an upper-tier planning authority.

I think it's proper and indeed necessary to recognize them, because there is a strong feeling in the county governments across this province that when it comes to legislation, the counties unfortunately are treated differently from the regions; indeed, they have the feeling in many cases that they're treated as second-class citizens. That's a matter of opinion, of course, but they can give you instances.

I'm very much in favour of it, and I think we should face up to it and name those counties. As I said, they came before us one after another pointing out that very strong feeling about being included and having a sense of equality with other upper-tier municipalities.

Mr Grandmaitre: They could all be prescribed. In other words, they could be prescribed by the ministry or the minister to have the approval power. This is really what the amendment is saying.

Mr Murdoch: They already have it.

Mr Grandmaître: No, counties don't.

Mr Eddy: Only by prescription.

Mr Hayes: I think we've said several times that the government does intend to assign counties the authority to approve plans of subdivision when they have up-to-date official plans and the appropriate staff resources. The individual needs of counties would be recognized, allowing assignment to take place when they do have their new official plans. We are going to be dealing with that issue.

Mr Grandmaître: What this amendment is doing, in clause (a), is recognizing the approval authority for the counties of Bruce—and we go on to name them, because all these counties do have official plans.

Mr Murdoch: So you agree with it then, Parliamentary Assistant. Is that right?

Mr Hayes: We feel they should be new official plans. Their official plans should be updated, and when they're updated, then we will prescribe them.

Mr Eddy: I think we have to recognize the point that we have two regional governments in this province that don't have approved official plans and yet we have several counties which do have approved land use official plans. We're giving the two upper tiers, namely, the regions of Peel and York, that authority, even though they don't have the plans yet. I know it will click in when they do, but we're not recognizing the requests of the counties to be recognized somewhat equally if they indeed have proper, approved official plans.

The fact that they have just been updated or need to be updated or will be updated in the future I don't think really should enter into it at this time. I feel it's the height of stupidity—maybe that's an unparliamentary term.

In the past, the counties weren't given many of the powers the regions had, because I think they would have excepted them. I well remember as administrator of the county of Middlesex that we did an official plan and we had to wait almost two years for the Legislature to change the act to allow counties to be designated municipalities under the Planning Act and therefore have an official plan. Just ridiculous, but that's the past and I shouldn't dwell back there, should I? But I think we should face up to it and name the counties, because they've asked for that, one after another.

Mr McLean: Our amendment is the same as the official opposition's. The parliamentary assistant has said they will be given the power once they have their official plan put on. That's exactly what this is doing, putting it in the legislation that they will have the approval once they've met the minister's approval.

Why are you so against putting something in to indicate the way it should be rather than leaving it to say once they've got the planning committee in place and once they've got the administrative staff in the county to do it? Why do you need that in there? Once they've got the official plan approved, I'm sure they would have the staff to run a county planning department. I fail to see why you won't accept these amendments.

Mr Murdoch: As Al said, we have the very same

amendment and would like to see this passed. If the parliamentary assistant cannot answer it, maybe he could ask one of his two sidekicks beside him. Maybe they could give us a reason. If you can't accept this—

Mr Eddy: I wonder if they'd approve if we took Grey out?

Mr Murdoch: Maybe they would. Maybe that's the problem, Ron; I don't know.

1740

I understand what you're saying there, Parliamentary Assistant, but you're not answering the question. Why can't you accept this with the names in there? If there is a specific reason and if you can't answer that, as I said, you have those two very capable people beside you. Maybe one of them could answer it, unless it's a political reason. If that's the case, then you say so.

Mr Hayes: No, it's not a political reason and I think I have explained it, that when they bring their official plans up to date then they'll be prescribed. As a matter of fact, we have an amendment that will give you a specific answer when we get to the government amendment, exactly what we are doing to have them designated. It will be on page 104, but I don't want to jump ahead.

Mr Murdoch: But you're not recognizing these counties' official plans now. You're saying they're not good official plans, obviously.

Mr Hayes: What we're saying here, and I will repeat it, is that when the plans are brought up to date and approved they will have these powers.

Mr Murdoch: So you're saying now that their plans aren't any good. That's what you're saying.

Mr Jim Wiseman (Durham West): I haven't seen any plans yet that satisfy all this.

Mr Murdoch: Well, that's a good statement. One of your members just said he hadn't seen a plan that was. Are you going to tell me then that when these counties get their new plans they will be?

The Chair: Mr Hayes again.

Mr Hayes: Yes, Mr Chair, if I may. There are some official plans in some counties that do not even conform to or are not consistent with some of the old policies, their ministry policies.

Mr Murdoch: They're approved.

Mr Hayes: They're approved, and we're saying they have to be updated.

Mr Murdoch: That's prejudice.

Mr Hayes: No, no, I don't think so at all.

Mr Murdoch: It is. Sure it is.

Mr Hayes: I don't think we want to have planning in this province here regardless of what kind of an official plan municipalities have.

Mr Murdoch: Are all the regions handled—

Mr Hayes: No, there is one; not two, one.

Mr Murdoch: Are the regions' plans okay?

Mr Hayes: I think they agree.

The Chair: I think we're ready for the—

Mr Murdoch: I don't think we are. I think you're

being very prejudiced here; I really do. I want that on record.

Mr Hayes: It's not discriminatory.

Mr Murdoch: It is. Yes, it's being really discriminatory or whatever you want to say; it is. Are the regions' plans all up to date then? Are you going to tell me they're all okay? Can you answer me that?

Mr Hayes: Let me tell you, if you want to start using words like "discriminatory," counties have been discriminated against for years and years by both the previous governments way too much.

Mr Murdoch: Why don't you rectify things?

Mr Hayes: So don't come and say this government is discriminating against them.

Mr Murdoch: You have a chance to rectify it. Why don't you rectify it?

Mr Hayes: We want to make sure that we have good, sound planning in our official plans and then they will have that authority.

Mr Murdoch: You made a statement and then you've got the chance to rectify it. Why don't you rectify it?

The Chair: All right. Mr Hayes, Mr Murdoch, I think both of you made the points for the record. We're ready to move on.

It's a Liberal motion that we have in front of us. All in favour? Opposed? That is defeated.

PC motion, a very similar one.

Mr McLean: I move that subsection 51(1) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"51(1) If land is in a local municipality that is in a county, other than a city, and that forms part of a county for municipal purposes,

"(a) the council of the county is the approval authority for the counties of Bruce, Grey, Hastings, Huron, Lambton, Oxford, Prince Edward, Victoria and the county of Wellington;

"(b) the council of the county is the approval authority on the day the minister approves all or part of an official plan for the county of Peterborough or any other county;

"(c) the council of the county is the approval authority of the day the minister prescribes the county under subsection 17(7);

"(d) the minister is the approval authority in all counties without approved official plans or which have not been prescribed under subsection 17(7)."

The Chair: Mr McLean, I move that motion is out of order—similar to the previous one.

Mr Eddy: The previous motion was not out of order. It was defeated.

Mr Murdoch: No, we lost it.

The Chair: We dealt with it.

Mr Eddy: It was defeated.

The Chair: We have dealt with it.

Mr Eddy: Yes.

The Chair: Therefore, this one is out of order.

Mr Hayes with your next motion.

Mr Hayes: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following subsections:

"Designation of county

"(7.1) Despite subsection (1), if land is in a local municipality that is in a county, other than a city, and that forms part of the county for municipal purposes, the county is the approval authority for the purposes of this section and section 51.1 on the day that the minister, by order, designates the county as the approval authority.

"Minister to make order

"(7.2) If a county is not covered by an official plan on the day this subsection comes into force, the minister shall make an order designating a county as the approval authority within 60 days after the day,

"(a) the minister or the municipal board approves all or part of an official plan that covers all of the county; and

"(b) the county by resolution requests the designation.

"Same

"(7.3) If a county is covered by an official plan on the day this subsection comes into force, the minister shall make an order designating a county as the approval authority within 60 days after the day,

"(a) the minister or the municipal board approves all or part of an official plan that replaces all of the plan that existed on the day this subsection comes into force; and

"(b) the county by resolution requests the designation."

I shall be very brief. This amendment allows the minister to designate counties as the approval authority for plans of subdivision under specific circumstances, and a county must have an official plan approved after proclamation and must request the designation, and counties that have new, approved official plans should be given the power to approve plans of subdivision if council requests it.

Mr Eddy: It's an interesting amendment. I notice in (7.3) the minister "shall" make an order designating the county as the approval authority. Having presented over a period amendments like that, directing the minister—it's usually considered that you can't force the minister. You can't give directives to the minister, but mandatory legislation is in place many times. Would legal counsel like to comment on that? I appreciate the change in the wording and see what you're doing, that once it's in order it "shall" happen. But you're directing a minister. Is it in order to do that?

Ms Ross: I'm not aware of there being a problem with that. The idea is to oblige the minister to delegate the authority upon certain things happening.

Mr Eddy: Could I ask, then, a further question: in (7.1) the situation with the city of Sarnia, which has been delegated subdivision approval authority and what else? The new city of Sarnia, of course, is now an integral part of the county of Lambton. The city has been given it, the county has not, but the city is part of the county now, so I don't know whether that's all right, or is that not affected by this wording?

What I'm asking is, does this wording "designation of county" cover that situation or does it mean that if,

sometime in the future, the county of Lambton is designated, then the city would lose that designation?

Mr McKinstry: No. In fact, Sarnia would keep it. So if Lambton had a new official plan, Lambton, outside of Sarnia, would get subdivision approval.

Mr Eddy: At no time in the future would they get it for the city, with the new official plan? And if not, why not, when they're a constituent municipality of the county of Lambton?

Mr McKinstry: The decision here was to give the subdivision approval to the city of Sarnia.

Mr Eddy: Yes, and I know the reasons for that. You explained that to us clearly.

Mr McKinstry: It wouldn't make a lot of sense to take it away from them in the future if in fact they were already operating it.

1750

Mr Eddy: It would make more sense to take it away and give it to the county if the county is going to have an approved official plan and thereby qualify for approval authority, because the city is a constituent municipality of the county.

The only way I can see why you would not give it is if you established Sarnia as a planning authority, and I don't know that you would do that. I guess that's a technical way of doing it. Is there another place like that? Let's see, what's another city that's come into the county system recently?

Mr Murdoch: Just Sarnia.

Mr Eddy: I guess Sarnia is the only one. What you're saying is, you'd leave the status quo and this doesn't change that.

Mr McKinstry: This provision would not change that, no.

Mr Eddy: Okay.

Mr Murdoch: Does this not do the same that we just argued about, the two motions that were just put in by the Liberals and by ourselves? It doesn't say anything about a new official plan in here.

It says: "If a county is covered by an official plan"—the counties we just listed on the previous motion have official plans—"on the day this subsection comes into force, the minister shall make an order designating a county as the approval authority within 60 days after the day."

It doesn't say anything about new official plans. You just argued that before, that they had to have a new one. I don't see anywhere where it says any new approved plans here. Is it not doing what we essentially want to do other than naming the counties?

That's the only thing I see it doesn't do—before we named the counties that should have the authority. This one doesn't name them; it just says any county that has an official plan.

Mr Hayes: It says, if you go on further to (a) and (b), "(a) the minister or the municipal board approves all or part of an official plan that covers all of the county," and "(b) the county by resolution requests the designation." That is exactly what we're doing.

Mr Murdoch: They don't mean new approved official plans, because those plans they have now—

Mr Hayes: Yes, they do.

Mr Murdoch: —have been approved by the OMB and they were named. We just picked out the ones that had approved plans. This thing is doing what we just argued and fought about and you guys didn't want to listen to us. Am I not right?

Mr Hayes: No, you're not right.

Mr Murdoch: Explain to me why I'm not right then, Pat.

Mr McLean: Where does it say in there that it's got to be a new official plan?

Mr Murdoch: Yes. Show me that.

The Chair: Where does it say it has got to be a new official plan, that's the question. Ms Ross?

Ms Ross: In clause 7.3(a), it says that on the day the minister "approves all or part of an official plan that replaces all of the plan that existed on the day this subsection comes into force," so there has to be a replacement plan. That's in situations where the county already has an official plan.

Mr Murdoch: That's right. That what we're talking about.

Ms Ross: Right. Yes.

Mr Murdoch: You're saying the ones that have them now have to be reapplied—

Mr McLean: Redone.

Mr Murdoch: Redone. Is that what you're saying?

Ms Ross: A new official plan.

Mr Murdoch: So after this comes, nobody will have the status to be able to approve subdivisions?

Interjection: No.

Mr Murdoch: That's what you're saying, they all have to be brought up.

Ms Ross: They'll have to be replaced.

Mr Murdoch: So the minister could just—okay.

Ms Ross: The minister always has the ability to delegate subdivision approval, but he only has the obligation to delegate in this situation where a plan had been approved that replaced the old official plan and the county had asked for it.

Mr McLean: A clarification then, Mr Chair: If we had a county that has done an official plan, such as Victoria, within the last year, approved by the county, after this year is done, completed with third reading, are you saying that county would have to go back and redo its official plan?

Why couldn't the minister say that it is done? Why would they have to go back and redo it?

Mr McKinstry: If it was approved after the date of proclamation then he wouldn't have.

Mr McLean: No, no, it was approved last year, 1993.

Mr McKinstry: The minister can still delegate. The minister can delegate at any time.

Mr McLean: But what this amendment is saying, and you just said, is that it would have to have a new—

Mr McKinstry: A new official plan.

Mr McLean: —official plan. That doesn't make sense to me. It's putting the county to a lot of expense if you've got one approved and then a year or less later say, "Well, you've got to have another new one." Why?

Mr McKinstry: As I said, the minister would still have the ability to delegate the approval authority for subdivisions. The minister always has that power.

Mr McLean: That's not the question. We're not talking about delegation; we're talking about a new official plan to coincide with this bill in order to get it passed. You're saying here with this amendment that if, as I said, Victoria county had a new plan in 1993, and this bill gets passed, then they're going to have to come up with another new plan.

Mr Murdoch: It's going to have to be reapproved. That's what it says right here.

Mr McLean: That doesn't make much sense to me.

The Chair: Sorry. Anything further to add?

Mr Murdoch: Is that not right? It says down here in clause (a), you just proved it, that the minister will have to reapprove that plan for Victoria.

Mr McKinstry: Victoria county already has the power to approve subdivisions.

Mr McLean: No. No, it doesn't.

Mr McKinstry: Yes, it does. It's been delegated the

approval authority for subdivisions.

Mr McLean: But what's that got to do with the official plan?

Mr McKinstry: All we're saying is that there are several ways of getting this approval authority. One of the ways is delegation, and Victoria has done that already. Another way is getting a new official plan and then they get it that way as well. It's the same power.

Mr Murdoch: So it's not much different to what's there right now?

Mr McKinstry: No. For Victoria, they already have the approval authority because the minister deemed their official plan to be a good plan and they should have it.

Mr Murdoch: Today, without any of this, if the minister decides—a county with an official plan might be updated, but the minister right now, today, could give them approval.

Mr McKinstry: That's right.

Mr Murdoch: So really we're just fooling around with a lot of paper.

The Chair: Okay. I think we're ready for the question. All in favour of Mr Hayes's motion? Opposed? That carries.

Given the time of the clock, we will adjourn until tomorrow.

The committee adjourned at 1756.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli
Hayes, Pat (Essex-Kent ND) for Mr Bisson
McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson
Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Harnick
Sutherland, Kimble (Oxford ND) for Ms Harrington
White, Drummond (Durham Centre ND) for Mr Malkowski
Wiseman, Jim (Durham West/-Ouest ND) for Mr Winninger

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister

McKinstry, Philip, acting director, municipal planning policy branch

Ross, Elaine, legal counsel

Murdoch, Bill (Grey-Owen Sound PC)

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel



Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 1 November 1994

Journal des débats (Hansard)

Mardi 1 novembre 1994

Standing committee on administration of justice

Planning and Municipal Statute Law
Amendment Act, 1994

Comité permanent de l'administration de la justice

Loi de 1994 modifiant des lois
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du territoire et des municipalités

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Tuesday 1 November 1994

Mardi 1 novembre 1994

*The committee met at 1553 in room 228.*PLANNING AND MUNICIPAL
STATUTE LAW AMENDMENT ACT, 1994
LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

Mr Allan K. McLean (Simcoe East): Mr Chair, I have a point of order I'd like to raise. I'd like to ask the parliamentary assistant to confirm that as of 5 o'clock today there's going to be a closure motion brought in on Bill 163. Is that your understanding?

Mr Pat Hayes (Essex-Kent): That's what I hear, Mr McLean. I don't know about the 5 o'clock, but I understand the House leaders were—

Mr McLean: Mr Chair, we've got a piece of legislation here before us that we've been dealing with. We've had public hearings on it and it's had many changes since. This piece of legislation has had some 225 amendments put forward to deal with, more than 200 of them by the government side. I'm wondering about the need to continue sitting here dealing with Bill 163 when tomorrow we will be debating a closure motion on this. You will, at the end of the time allotted, deem that all amendments not made be made, and therefore the bill will be ordered for third reading. I would think that would be the process.

I'm wondering if there's any point. There has not been an opposition or third party amendment accepted yet in all the deliberations we have had, and I don't anticipate that there will be one accepted. There could maybe be one, but if there was one, it would be minimal. I'm asking you, Mr Chair, what is the point in our proceeding in committee today if we're going to have closure brought in?

The Chair (Mr Rosario Marchese): We have no knowledge of what you're raising. Until that is presented in the assembly, we continue working at it clause by clause. Rather than debating what you're suggesting, I

suggest we simply move through clause by clause as we have done. We have nothing before us to deal with that.

Mr McLean: The parliamentary assistant has confirmed that at 5 o'clock it will be happening.

Mr Hayes: I have just been informed that that is not confirmed.

Mr Chris Stockwell (Etobicoke West): Ha!

Mr Hayes: Well, I'm telling you. Do you want to know or not? I'm telling you that the discussions were going on and it's not confirmed. We have nothing in writing that says that is definitely done.

Mr McLean: But you said it was confirmed—by whom?—and now you're saying it's not confirmed—by whom?

Mr Hayes: I just told you that I was just informed that it's not confirmed.

Mr Stockwell: Who informed you?

Mr Hayes: One of the staff informed me.

Mr Ron Eddy (Brant-Haldimand): Thank you to the parliamentary assistant for forewarning us about that, indeed confirming, from your point of view, that indeed this is the case.

I think the important thing we should remember here is that this bill contains more than just the new Planning Act for the province of Ontario. It contains some other very important issues, such as the disclosure and that sort of thing. I just want to note that I really think we need the time. I don't understand why we're being faced with this when the House is sitting and we do have time, I would think, to proceed to do the amendments.

The Chair: Exactly; that's my point. I'm not going to entertain a discussion on this matter because we have nothing before us to deal with that. If there were a motion with notice providing for a time allocation to talk about, that would be a different matter. What I want us to do is to move on to clause-by-clause, okay?

Mr Bernard Grandmaître (Ottawa East): But, Mr Chair, I have just been advised by my House leader that there has been an agreement that at 5 o'clock—

The Chair: But if there's an agreement on that, presumably that will be debated at some other point. I don't want to take the time of this committee to debate something that may or may not be coming. I'd rather deal with the clause-by-clause.

Mr Stockwell: That's fine, but do you see the package of clause-by-clause we still have to go through?

The Chair: I understand.

Mr Stockwell: Then let's all work forward in good faith. In good faith, I'll work through this clause-by-clause now. I take you at your word and I take the parliamentary assistant at his word. That's fine, let's move on. But if we get a time allocation at 5 o'clock, I'm going to be very angry. I'm taking you people at your word. I know that's dangerous, but I will.

The Chair: No. All I'm saying as the Chair is that I have nothing before me, I have no understanding of any understanding that's been reached, or not, by House leaders. Given that, I want us to proceed. Mr Hayes, page 106, for the government motion.

Mr Grandmaître: Can we take a 20-minute recess to find out?

The Chair: I'd rather we not do that. I'd rather we move on. Mr Hayes, please proceed.

Mr Hayes: I move that subsection 51(8) of the Planning Act as set out in section 28 of the bill be amended by striking out "or (7)" in the third and fourth lines and substituting "(7) or (7.1)."

This amendment adds a cross-reference to the new subsection 51(7.1) noted in the previous section.

Mr Grandmaître: What's the number of that?

Mr Hayes: It's page 37 in the bill. This is a consequential amendment as a result of the addition of the new subsection 51(7.1).

Mr McLean: It says "the power given under subsection (5), (6) or (7) and the order may be in respect of the applications specified in the order or in respect of any or all applications made after the order is made." Why are you changing this?

Ms Elaine Ross: In the previous government motion we added a new subsection 51(7.1), so it's merely a cross-reference that needs to be then added to 51(8).

Mr McLean: Which previous motion was that?

Ms Ross: Page 107, the one relating to counties.

The Chair: Further questions or comments? All in favour of the motion by Mr Hayes? Opposed? That carries.

We have a government motion again.

1600

Mr Hayes: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following subsection:

"Delegation

"(10.1) If an order is made under subsection (8) in respect of land that is located in a municipal planning area, the minister may by order delegate to the municipal planning authority the power to approve proposed plans of subdivision which was removed from the council and the municipal planning authority becomes the approval authority in respect of the applications to which the order made under this subsection relates and the delegation may be subject to such conditions as the order provides.

"Effect of revocation

"(10.2) If the minister revokes the order or part of the order made under subsection (10.1), the minister reverts back to being the approval authority in respect of all

applications to which the revoked order or revoked part of the order applies and the municipal planning authority shall forward to the minister all papers, plans, documents and other material that relate to any matter to which the revoked order or part of the order applies and of which a final disposition was not made by the municipal planning authority before the order or part of the order was revoked."

This motion would give the minister the power to delegate subdivision approval power to a municipal planning authority where he or she has removed the assigned subdivision approval power from a council. This amendment is similar to the amendment proposed to be made to section 50 regarding consents.

Mr Stockwell: Can you go into a little more depth with respect to the subdivision powers and what he or she is revoking and why they're revoking and so on?

Mr Philip McKinstry: You may recall that yesterday we had a section which would allow the minister to remove the consent granting authority from the county and give it to a municipal planning authority. Now, one of the motions we introduced was a motion that would require the minister to give counties the power to approve subdivisions if they have a new official plan. Therefore, in order for the minister to be able to give the subdivision authority to the municipal planning authority, there needed to be a way of taking it from the county and giving it to the planning authority. It's simply a legal mechanism of allowing the minister to give the subdivision approval authority to the municipal planning authority, which didn't exist in the act because municipal planning authorities are a new planning tool.

Mr McLean: Could you make that a little clearer? I was watching you, but I couldn't quite follow you.

The Chair: Mr McKinstry, Mr McLean is asking for further clarity on the matter.

Mr Stockwell: What's the new tool?

Mr McKinstry: Municipal planning authorities are a tool in the Planning Act whereby a group of municipalities in one county or in different counties, municipalities that are adjoining and separated cities, may join together to plan as a unit together. If they do that, it may be wise to give them also the power to approve subdivisions and consents.

Mr Stockwell: Like regional governments.

Mr McKinstry: Not like regional governments, no. They would only do planning.

Mr Stockwell: But similar to regional governments.

Mr McLean: For planning purposes.

Mr McKinstry: Only for planning purposes, yes.

Mr Stockwell: Right. And regional governments have planning authority.

Interjection.

The Chair: All right, Mr Stockwell, go ahead. Further questions?

Mr Stockwell: I was trying to get clarification, but the MPP for St Catharines-Brock—

The Chair: Mr McKinstry was answering the ques-

tion. Do you have further questions?

Mr Stockwell: No, I don't think so.

Mr McLean: For clarification, if you have a city and you have a county surrounding a city and you have some unorganized territory on the outside of that, you would form that as one planning area and that could be classified as a form of regional government.

Mr McKinstry: This does not apply in areas with unorganized territory. This is only in counties and it's specific to planning.

Mr McLean: I think we're getting confused now because I don't think the Chairman understands what we're doing.

The Chair: No, that was a different expression, Mr McLean. I beg your pardon.

The Chair: Any further questions? Seeing none, all in favour of the motion? Opposed? That carries.

A PC motion.

Mr McLean: I move that subsection 51(12) of the Planning Act, as set out in section 28 of the bill, be amended by adding the following clause:

"(m) a description of the use and density or unit count of land designated as development blocks."

Mr Ron Hansen (Lincoln): Do you understand that, Al?

Mr McLean: Yes, I do, and I want to find out why, if they will not accept this amendment. It would kind of designate with regard to minor variances and be able to clarify the density of the units.

Mr Hayes: Can you clarify that a bit for us, Mr McLean?

Mr McLean: I just did.

Mr Hayes: I was seeing you but I wasn't really understanding it.

The Chair: Thank you, Mr Hayes. Any further questions or discussion? Seeing none, all in favour of the motion? Opposed? It's defeated.

Government motion.

Mr Hayes: I move that subsection 51(13) of the Planning Act, as set out in section 28 of the bill, be amended by adding after "refuse to" in the first line "accept or."

The bill allows the approval authority to refuse further consideration of a subdivision application if it is incomplete, and it should be clarified that the approval authority also has the authority to refuse to accept an incomplete application. The refusal to consider is contingent on the prescribed information, not additional information which the approval authority may ask for.

Mr Stockwell: How could you forget this in the original drafting of the legislation?

Mr McKinstry: This is a clarification. When we drafted the legislation this was what was intended, but some people, commenting on the bill, suggested it wasn't absolutely clear that they could refuse to accept and not just refuse to consider. It was just a clarification.

Mr Stockwell: Fine.

The Chair: All in favour of the motion? Opposed? That carries.

Mr Hayes: I move that subsection 51(14) of the Planning Act, as set out in section 28 of the bill, be amended by striking out "30" in the first line and substituting "14."

The bill currently requires a 30-day separation between the notice of the application and/or a public meeting and the making of a decision by the approval authority on a draft plan of subdivision. We've heard several submissions on Bill 163 that the 30-day separation is too long and does not contribute to streamlining.

The Chair: Discussion? All in favour of the motion? Opposed? That carries.

A PC motion.

Mr McLean: I move that subsection 51(14) of the Planning Act, as set out in section 28 of the bill, be struck out.

I guess we just voted to amend it, so I'm not too sure I would get an agreement to vote for it. However, I think it's worth a shot: I would like to see the whole (14) struck out.

The Chair: Discussion? All in favour of the motion? Opposed? That is defeated.

Mr Stockwell: What are you talking about? That was five to three, as far as I counted.

The Chair: A Liberal motion next.

Mr Eddy: I move that clause 51(14)(b) of the Planning Act, as set out in section 28 of the bill, be struck out.

The Chair: Discussion? Seeing none, all in favour of the motion? Opposed? That motion is defeated.

A PC motion next.

Mr McLean: I move that clause 51(14)(b) of the Planning Act, as set out in section 28 of the bill, be struck out.

The Chair: It's identical, Mr McLean.

Mr McLean: Yes, and I'm not too positive that you would oblige me with the opportunity to say we had one carried, so we will just let you take over and probably call the vote.

The Chair: It's out of order, Mr McLean. Is that what you want me to say? This is out of order.

A government motion next.

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Mr Hayes: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following subsections:

"Request

"(14.1) An approval authority may request that a local municipality or a planning board having jurisdiction over the land that is proposed to be subdivided hold the public meeting referred to in clause (14)(b).

"Meeting

"(14.2) A local municipality or planning board that receives a request under subsection (14.1) shall ensure that,

"(a) notice of a public meeting is given in accordance with the regulation made under clause (14)(b);

"(b) a public meeting is held; and

"(c) within 15 days of the meeting, the prescribed information and material are submitted to the approval authority."

Mr Hayes: The bill currently states that the approval authority shall ensure that a public meeting is held if required by regulation on a draft plan of subdivision. The approval authority may request that the affected municipality or the planning board hold the public meeting but the municipality or planning board is not obligated to do so. This is really in keeping with the thrust for more municipal involvement at the subdivision stage.

Mr Stockwell: This authority, is this the group that you've put together that you pass the powers to?

Mr McKinstry: What this is saying is that where—

Mr Stockwell: I know what it's saying. I'm saying the authority part, "An approval authority may request"—is that approval authority the group that gets put together that will be vested powers?

Mr McKinstry: Oh, sorry, no, an approval authority could be the region, could be a separated city, could be a planning board, could be a municipal planning authority. It could be that or it could be the minister.

Mr Stockwell: It could be the minister.

Mr McKinstry: Yes.

Mr Stockwell: My question, then, is if it is this kind of tacit loose-knit group of people who have come together, why would they not hold the public meeting if they're going to make the decision?

Mr McKinstry: One of the things we've heard a lot was that in fact local municipalities are most in touch with their citizens in terms of local development issues.

Mr Stockwell: You're absolutely right.

Mr McKinstry: So be it a region, be it a municipal planning authority, the opinion seemed to be that it would be helpful if the local municipality held the public meeting, because it was the one that would have to answer to the local ratepayers.

Mr Stockwell: But the question maybe is more political than technical, Mr Chair, through you to the parliamentary assistant. It seems rather silly that you form these kind of quasi-political jurisdictions to make planning decisions, then you have this quasi-political jurisdiction direct local counties, councils, any local towns etc to hold public hearings at the subdivision stage and they're to report their findings, vote, whatever it is they have, to this group. It seems an absolutely insane process to go through. If you're going to insist on public hearings at that stage, why would you not simply tell the group that you've organized as a quasi-political jurisdiction to hold the public hearings and get the information straight from the horse's mouth?

Mr Hayes: One thing is that the municipal planning authority can hold meetings if it chooses to do so without having to be told from the upper tier or whatever.

Mr Stockwell: But you're telling them they don't have a choice.

Mr Hayes: But the people who have the approval authority would—it actually is permissive, am I correct on that? It's not required, it's permissive, telling them that if they want to they may do it.

Mr Stockwell: Let me follow up then. It doesn't read permissive to me. It says, "An approval authority may request that a local municipality." That means to me that the local authority then tells the municipality to hold the public hearing. In my country that's not permissive, that's directive. "You hold a public hearing at the subdivision stage on this." How do you find that permissive?

Mr Hayes: They can hold the public meeting themselves, first of all—and I think I've already said that—if they want.

Mr Stockwell: Anybody can hold a public meeting on anything, if you're elected.

Mr Hayes: Yes, that's correct.

Mr Stockwell: That's given.

Mr Hayes: But what it's actually saying here is they "may request," and if they choose to do so, that's the way it will be.

Mr Stockwell: But you're missing the point here. The point is this: You're saying that this quasi-political jurisdictional group you've set up to oversee the planning of an area then directs a local council, municipality, to hold a public hearing. That local council has no choice. They have to hold the public hearing, even if they chose not to do so. Then you're telling me this allows people in the communities to have input into a group of people who make no decision on whether or not the thing's approved.

For instance, let's talk about Metro and Etobicoke. Metro says to Etobicoke: "You've got a plan for subdivision here. You hold a public hearing and hear from the community." The Etobicoke politicians go out and hear from the community, report back, vote on it and send it to Metro, which then makes a decision on whether it goes ahead, and it has heard from nobody. What sense does that make?

Mr Hayes: I think it does make sense, because you're talking about the local people having the meeting and having their input for the local people to put together proposals for the upper tier.

Mr Stockwell: But the question stands. They're having input. They're having a public hearing, but they're not talking to the people who are making the decisions. They're talking to people who are their local councils but have no jurisdiction.

Mr McLean: A rubber stamp. That's all they are.

Mr Stockwell: It doesn't make any sense. It's like us holding a public hearing and sending all the staff and saying, "Okay, go hear from the people." My constituents don't want to talk to staff. They want to talk to the politicians, those who make the decision.

Mr McLean: It's the same as these hearings.

Mr Hayes: They'll be talking to the local politician. My understanding is that the way we're putting it in here now is that that is being done in several areas right now, and that's what the local municipalities are asking for.

Mr Stockwell: Of course it's being done now. I don't dispute that, but right now they make the decision. The local people make the decision. With this quasi-political jurisdictional group you're putting together, then there's a regional government that makes a decision. But ultimately they get an opportunity to speak to those people, elected officials who end up making a decision on, say, plans of subdivision. Don't shake your head no. It happens. There are public hearings that that happens at.

Mr Hayes: No.

Mr McKinstry: In most cases where municipal planning authorities could be set up, the minister is still the approval authority for subdivisions.

Mr Stockwell: Ultimately, but he hears recommendations from this planning authority. Correct?

Mr McKinstry: No, there are no planning authorities now. It's a new—

Mr Stockwell: No, but in this scheme, this Sewell scheme, these planning authorities will then have decision-making powers. Correct?

Mr McKinstry: That's right, as the minister does now.

Mr Stockwell: Right. But those planning authorities don't hold public meetings. What's democratic about that?

Mr McKinstry: If you want, I could use an example of the regions, for example, where the regions now, most of them, I think all of them in fact, have subdivision approval authority. In most cases they have an arrangement with the local municipalities where the local municipalities will hold the public meeting, and then they will report to the region, which makes a decision.

Mr Grandmaître: And they rubber-stamp the decision.

Mr Stockwell: And they rubber-stamp the decision by local councils.

Mr McKinstry: I couldn't speak to that.

Mr Stockwell: Well, I can, because I was at both ends of the spectrum. We had the public hearing at the council. We recommended to Metro. Metro rubber-stamped it. It got sent on. You're telling me you've got a planning authority now that's going to be able to plan differently, that's going to offer a different format. So are you saying they're just going to be a rubber stamp for these things?

Mr McKinstry: The intention is that they do planning, that they prepare plans and that—

Mr Stockwell: Then why are they doing planning if they don't have public hearings?

Mr McKinstry: The local municipalities would have the public hearings.

Mr Stockwell: But they don't have the final decision.

Mr McKinstry: This is something the local municipalities have largely agreed to.

Mr Stockwell: Well, maybe they agreed to it, but this is something cooked up in John Sewell's head that he thinks will work but wouldn't work in a million years. It's another one of those Sewell things that people outside

of this little bit of core of downtown Toronto, nobody buys into it.

The fact is, folks—and I'll speak now, Mr Chair—

The Chair: What have you been doing so far?

Mr Stockwell: Asking some very pertinent questions.

Mr Gary Wilson (Kingston and The Islands): Oh.

Mr Stockwell: Well, I think they were. I mean, I'm fairly confident the members opposite didn't understand.

Mr Gary Wilson: Let's vote on it then.

Mr Stockwell: I'm also fairly confident I know how they're going to vote. I'm also fairly confident that I know they're going to vote for the closure motion at 5 o'clock as well, and that shows how committed they are to the public hearing process that we're involved in.

But the fact is this, Mr Chair, through you to the members of the committee: What we have in this instance is a regional government that rubber-stamps approval processes by the local municipality. Don't tell me it doesn't happen. It happens every day of the week, because the local councils go to public hearings, they hear from their constituents, their constituents tell them whether it's good, bad or indifferent and then the regional government says, "Fine, we'll approve this."

The only thing they're going to go ahead and question could be regional planning issues. But if they're going to question regional planning issues, if Metro's going to say, "We don't have enough space in the road allowance to accept this subdivision," then Metro will have its own public hearing. That's what happens.

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This process says—and it's not permissive; it's very directive—the authority tells the local municipality, "Hold a public hearing on this subdivision," the local municipality holds the public hearing, people come out and speak to a group, they tell them their concerns and problems and this council then passes this and sends it to the authority. All the authority then becomes is either a rubber stamp or a big pain in the arm because they're changing recommendations that were held at the public hearing stage.

I say to you that if you're going to have the authority making decisions and not being a rubber stamp, then these people had better hold the public hearings and had better hear from the constituents who have concerns about subdivision plans at certain levels, because if they don't, they're nothing more than another level of government that's out of touch with constituents, which is what John Sewell was trying to stop. This will not stop it. This will exacerbate the problem.

Mr Eddy: I'd like to hear the parliamentary assistant respond to that, because it's a very real and a very serious problem. I think we well remember, those who attended the hearings, when the mayor of the city of Scarborough came before the committee with a presentation to discuss that matter at length. The municipality had the public hearing and the regional planning representation was at the meeting and made notes. It was approved, and then at the last step the regional planning commissioner said he wanted it changed—"I want that changed."

He wasn't at the meeting, but his representative did report to him, and it was approved by that person in the planning department.

The Metro planning commissioner said, "I want something changed." I've forgotten what the item was, serious from the point of view of the local municipality, and the mayor said they had to make representation to the regional council to get it to finally overrule the Metro planning commissioner, and perhaps the term "rubber stamp" is what then applied. It's a very serious problem.

Of course, I'm a person who's absolutely opposed to two-tier planning to start with, because I think it's too confrontational; it's too expensive. I would far rather see the upper tiers in all cases have a policy plan, the requirements of which are incorporated into the local official plan. Once it's approved and in the public hearings that are held by the local municipality, all of the regional concerns and requirements are there to be dealt with at that time.

It's far simpler and I think we will go that route some day in Ontario, so I'm just wondering if there is any kind of a response. I don't really think you can assure us that this won't happen, that it will be rubber-stamped, so to speak.

Mr Hayes: I can't assure you of that. I think it would be foolish of me to say what kind of decision another level of government is going to make. But I think this whole thing is to try to ensure that the public has input, period. We're hearing people talking about rubber-stamping. Well, let's put it this way. This amendment is not going to worsen what is already there. There's been talk about rubber-stamping and it's something that's going on now.

But we're saying that if they have the public input, and these are people, and then you have your municipal council or your local planning boards listening to the input, they really should be putting all the comments of what the people are saying in that local municipality for the upper tier to make a decision.

Mr Eddy: I would go even further and say that when you have additional hearings regarding a piece of property by the conservation authority, and now we have the Niagara Escarpment Commission and I don't know what else there is out there, it's very difficult for people to proceed with anything in view of the various bodies concerned. I think it should be dealt with, I was going to say not at one public meeting, because maybe there is more than one required, but I don't believe people should have to have hearings at the local level, the upper level—you're not advocating that they have it at the upper tier—then the conservation authority and then in some cases the Niagara Escarpment Commission.

To really make it much more efficient, I think it should be done at the one time, where the local official plan contains in it the requirements of the upper tier, of the conservation authority, and do it all at once. Those bodies can have representatives there, and should of course, who can speak to their issues. I know that's going beyond. We're really talking about the two-tier planning system. I don't like using the term "rubber stamp," but some people would term it that. Is that what it is? I'm not sure.

Mr Grandmaître: I agree with the parliamentary assistant that we need local input, but once it leaves this local council and the approval authority for instance turns it down, what is the process then?

Mr Hayes: Does somebody want to answer that?

Mr Stockwell: You go to the OMB.

Mr Hayes: The OMB, yes.

Ms Ross: Once it leaves the—

Mr Hayes: Once the upper tier turns it down.

Mr Grandmaître: Yes. Once it's approved locally and it goes to the approval authority, let's say a regional government, and it's turned down, what happens then? It goes back to the local municipality?

Ms Ross: If they make a decision, then there's an appeal period and there'd be 30 days to appeal the decision that the regional government made.

Mr Grandmaître: They can go back and forth for a year or two or three?

Ms Ross: If they've actually made a decision, you don't go back and forth for a year. It's 30 days to appeal and it goes to the OMB.

The Chair: Any other questions?

Mr Eddy: I guess we're back to the point then where we say a public hearing is held by the local municipality—of course that can be by the council or by a committee thereof or by an official of the local municipality—a decision is made and then it goes to the upper tier. That decision then can be made, depending on what action the upper tier of council has taken, by the council, by a committee or by an official, depending on who's been delegated. The problem is of course that's where the term "rubber stamp" comes in.

Do you feel then that the local official plans will incorporate in all cases the requirements of the upper-tier official plan?

Mr Stockwell: Yes. They have to conform.

Mr Eddy: They're required to conform, but unfortunately they don't, unless the local municipality revises its official plan whenever the upper tier revises its official plan, if it affects the local council.

The Chair: Response, if any?

Mr Eddy: Do you see it working?

Mr McKinstry: Any decision would have to conform to both the lower-tier plan and the upper-tier official plan. The Planning Act also requires that the lower-tier official plan conform to the upper tier and provides a mechanism by which the upper tier can amend the lower-tier plan if it doesn't conform.

Mr Eddy: But of course decisions are made many times in direct conflict with the provisions of an official plan at either level. That can happen.

Mr McKinstry: Yes.

Mr Eddy: It may or may not be appealed of course.

Mr McKinstry: That's right, and that's where the appeal can be a useful tool. It can go to the OMB and then the OMB gets a chance to adjudicate.

Mr Eddy: You're aware of course that the OMB does

not necessarily follow the requirements of an official plan of municipalities. In fact, they have made many decisions in direct conflict with official plans. Yes, I assure you it's happened. I can give you a list of cases if you want. It does happen, but I guess we're not really discussing that. We're not at that point. But that does happen, unless the OMB has perhaps now decided that official plans that have been passed by an elected council and approved by the approving authority really are valid and important to follow.

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Mr Stockwell: The absolute folly of this amendment and this advice that you're giving to this committee speaks volumes as to what's wrong in Metro Toronto when it comes to planning, absolutely volumes. What you end up with in Metropolitan Toronto is—and this is what I don't understand through the Sewell report, and it hasn't stuck, in my view, to what I believe John Sewell believed in. John Sewell believed in the local neighbourhood planning process, and by local neighbourhood planning process he meant the community had major input into the development of its neighbourhoods. You sought community input to protect neighbourhoods.

Now with this kind of planning process, very similar to Metro's, at Metropolitan Toronto council you have people from Etobicoke and people from York and the west end of the city of Toronto planning Scarborough, and you also have people in Scarborough planning Etobicoke. It takes away from what we were supposed to be developing, which was neighbourhood planning. This goes the same way. It says a local authority, mashed together, can make decisions that affect towns and communities which may not like them.

I guess what I'm saying to you, Mr Chair, through you to your parliamentary assistant and the committee, is that this process will stink. They won't like it. The local communities, when a decision is rendered by a group of people who don't live in their towns, don't live in their neighbourhoods and don't live in their communities, will cry foul when development approvals are given against their wishes. They can always say at the OMB that it's quasi-judicial and those are decisions that are made by a quasi-judicial board. This authority is not that, as Metro council is not, and I don't think anyone would argue Metro council and local council haven't been working together for the past six years.

I'm going to be opposed to this. I'm opposed because it's ill-conceived, ill-thought-out and it runs completely counter to what you as NDPs and Mr John Sewell as a socialist himself, I would be safe to say, used to believe in, and that was local autonomy, local neighbourhood development.

On a final note, Mr Chair in Fort York I know your communities have a very important input into what develops in your neighbourhoods. I think it's wrong for members from North York, Etobicoke and Scarborough to start dictating development applications, development proposals in your neighbourhoods, just as I don't want you telling my constituents what they should be approving, because what you think is good my constituents don't necessarily agree with. I will say finally, what Mr

Sewell thinks is good a lot of people in this province don't agree with.

The Chair: Thank you. Any response from staff?

Mr Stockwell: No, that's not a staff comment. That was a political comment.

Mr Hayes: I don't really entirely agree with Mr Stockwell. What this is doing is ensuring that there is a public meeting.

Mr Grandmaitre: No, it's not.

Mr Hayes: Yes, it is. That's exactly what it is doing, and the fact of the matter is that if the approval authority, for example, just rubber-stamps, which is being indicated here, and I'm not arguing that, and if that's the case, those people, the public, the local people, would still have the right to go to the OMB to make sure that their comments that they made at the public hearing are also brought forward at the OMB hearing. They still have that process to go through.

Mr Stockwell: Then there are two questions for you, Mr Hayes, two very important questions. If it's a rubber stamp, what the hell are you doing it for, and (b)—

Mr Hayes: You're suggesting the rubber-stamping.

Mr Stockwell: You said you agreed.

Mr Hayes: I said I'm not arguing with you on that point.

Mr Stockwell: Oh well, excuse me. But if it is a rubber stamp, then what are you doing it for, and (b) if they go to the OMB, who's paying for them to go to the OMB? Who funds the neighbourhood to go to the OMB? They've got to dig money out of their pockets personally to fight a regional government they don't even elect.

Mr McLean: Is there any chance of withdrawing this motion?

Mr Stockwell: You're going to spend six figures to fight them at the OMB. That's absurd. Don't give them intervenor funding; it'll cost us more and take more time.

Mr Hayes: Are you suggesting you want intervenor funding? Is that what you're saying?

Mr Stockwell: It slows the process down and costs tons of money.

The Chair: All right. I think we're ready for the vote. All in favour of Mr Hayes's motion? Opposed? That carries.

Liberal motion.

Mr Eddy: I move that subsection 51(16) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"(16) Subsections 17(20) to (20.5) apply in respect of the decision of the approval authority."

This is for clarification purposes, and I think it's important to put in. I'm sure you'll agree with this one. It's a technical amendment, really, I feel.

Mr Hayes: If I may ask Mr Eddy where this would actually fit in the bill.

Mr Eddy: I had it here. Just a minute. Subsection 17(20), yes.

Mr Hayes: Do you have it?

Mr Eddy: It's 51(16). It's at the bottom of page 39.

Mr Hayes: But there is no subsection (20.5). It's not in here.

Mr Stockwell: Oh, that's referring, I think, to the authority and its decisions under subsection (20).

Mr Eddy: Yes, it goes to (20.2), it goes to (20.3), it goes on to page—I think I'm right. So (16) on the bottom of 39 says, "The approval authority may confer with the persons or public bodies that the approval authority considers may have an interest in the approval of the proposed subdivision." Subsection (17) is what we're talking about, the last subsection on that page, and what we feel should be added. Subsection 17(20)—

The Chair: Mr Eddy, I'm going to ask legal counsel for an opinion. Ms Mifsud?

Mr Eddy: Yes, we can go on and leave it with them for now.

Ms Lucinda Mifsud: It was a companion to one of your other motions earlier on.

Mr Eddy: Yes, I know, and I thought I had that before.

Ms Mifsud: It's on page 45 of the motion book.

Mr Eddy: But I had it here a few minutes ago and it seems to have disappeared.

Ms Mifsud: Unfortunately, it was voted down. That was a cross-reference. It was a companion to this other motion that you moved earlier and it appears to have been defeated.

Mr Eddy: Thank you for the clarification.

The Chair: Mr Eddy, are you withdrawing?

Mr Eddy: Yes, thank you.

The Chair: A PC motion. It's identical, Mr McLean.

Mr McLean: I have a motion. I move that subsection 51(16) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"(16) Subsections 17(20) to (20.5) apply, with necessary modifications, to the approval authority in respect of a decision under this section."

Apparently, this has been dealt with on a previous motion, so we will not bother proceeding unless the Chair would like to pass it.

Mr Stockwell: We'll withdraw.

The Chair: Yes, you're withdrawing that.

Mr McLean: With graciousness.

The Chair: Wonderful. Thank you very much.

Next? A Liberal motion.

Mr Eddy: I move that subsection 51(17) of the Planning Act, as set out in section 28 of the bill, be amended by adding the following clause:

"(m) the affordability of any residential units proposed."

The purpose of that is that it's in the list as an item to be considered when an approval authority is considering a draft plan of subdivision. It will have regard to, among other matters, "the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to" the following list, (a) to (l), and this would

add an (m), the affordability. There is concern about this matter in many areas of many municipalities.

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Mr Hayes: The policy statement actually addresses the affordable housing issues, and decisions on subdivision applications must be consistent with the policy statement. So it's actually dealt with there. We should be looking at the whole municipality, not each individual subdivision.

Mr Stockwell: It's called intensification: Build apartments above beer stores.

Mr Hayes: Has he got the floor?

The Chair: Discussion? All in favour of the motion? Opposed? It's a tied vote. The Chair will vote against this motion in order to maintain the status quo of the bill. So that motion is defeated.

Mr McLean: I move that subsection 51(17) of the Planning Act, as set out in section 28 of the bill, be amended by adding the following clause:

"(m) the affordability of any residential units proposed."

I think we'll withdraw that at this time.

The Chair: A Liberal motion.

Mr Eddy: I move that clause 51(18)(d) of the Planning Act, as set out in section 28 of the bill, be amended by adding at the end "and the provision of affordable housing."

It's a very important matter to be considered. We think this is a good place to add it.

The Chair: Discussion? Seeing none, all in favour of this motion? Opposed? It's a tied motion. The Chair votes for the status quo. That's defeated.

Mr McLean: I move that clause 51(18)(d) of the Planning Act, as set out in section 28 of the bill, be amended by adding at the end "and the provision of affordable housing."

AMO has requested some of these amendments that we're putting through. Obviously you don't agree with AMO. So if you don't, then I'll withdraw it.

The Chair: Mr Hayes, a government motion.

Mr Hayes: I move that clause 51(18)(d) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"(d) that the owner of the land proposed to be subdivided enter into one or more agreements with a municipality, or where the land is in territory without municipal organization, with any minister of the crown in right of Ontario or planning board dealing with such matters as the approval authority may consider necessary, including the provision of municipal or other services."

This is a technical amendment to substitute wording used elsewhere in the act.

Mr McLean: What page of the bill is that on?

The Chair: Page 40, Mr McLean.

Mr McLean: I thought it was page 41. Is it 40 or 41? Do you not know what you're doing up there?

The Chair: Page 117a, Mr McLean, section 28 of the bill, clause 51(18)(d), okay?

Mr Stockwell: What page is it on?

The Chair: Somebody has already said that. Page 41 of the bill.

Mr McLean: Why would you amend it by striking out "or approval authority"? Why would you do that?

Ms Ross: What we did was we changed "not in a municipality" to "in territory without municipal organization," and we changed "any minister" to "any minister of the crown in right of Ontario." Those were the two technical amendments that were made, and they're for clarification only.

Mr McLean: If you're dealing with unorganized territory, is there going to be a planning committee set up to deal with that? I thought what we were going to try to do in the unorganized territories was to have them amalgamated with a district that would be under some municipal jurisdiction. Are you not looking at that issue?

Ms Ross: There is provision for planning boards in territory without municipal organization now, and that will continue in the future. That's right. This is talking about subdivision agreements and the ability of ministers of the crown to enter into subdivision agreements with the owner.

The Chair: Please raise your hands, all in favour of the motion. Opposed? That carries.

Mr Stockwell: I ask you not to say that any more. Can you just call for the vote?

The Chair: There's a government motion. Mr Hayes, are you moving it? We're on page 118. Are you moving that or not?

Mr Stockwell: Or is this an amendment to the amendment?

The Chair: If you're not moving this, we move on to the next.

Mr Hayes: Right.

The Chair: Page 119, then.

Mr Stockwell: What's going on, Mr Chair?

The Chair: We're on page 119.

Mr Stockwell: I've got 118, the replacement of the government motion.

The Chair: Mr Hayes is not moving that.

Mr Stockwell: He's what?

Mr Hayes: I'm not moving it.

The Chair: He's not moving it; therefore it's not before us. He's moving on to—

Mr Stockwell: Hold on. You know, I dealt with this; I was looking at it today. You proposed an original amendment. Then I guess you messed that up so badly you brought in a replacement to the original amendment, and now you must have messed that up so badly you've withdrawn it all and you're not going to move anything. What's going on?

The Chair: Mr Hayes, do you want to comment?

Mr Hayes: It's very simple what's going on. It's being dealt with in the next section.

The Chair: Mr Hayes, moving on to the next amendment.

Mr Hayes: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following subsections:

"Land outside municipalities

"(19.1) If the land proposed to be subdivided is located in territory without municipal organization, any minister of the crown in right of Ontario or planning board may enter into agreements imposed as a condition to the approval of a plan of subdivision and the agreement may be registered against the land to which it applies and the minister or the planning board is entitled to enforce the provisions of it against the owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of land.

"Restrictions

"(19.2) The authority to approve a plan of subdivision, impose a condition or enter into an agreement under this section does not include the authority to prohibit the erecting, locating or use of two residential units in a detached house, semidetached house or row house situated in an area where residential use is permitted by bylaw and is not ancillary to other uses permitted by bylaw.

"No effect

"(19.3) A condition or provision made under this section is of no effect to the extent that it contravenes the restriction described in subsection (19.2).

"Exception

"(19.4) Subsections (19.2) and (19.3) do not apply to a condition or provision made or to the exercise of the powers under section 50 of the Condominium Act."

Mr Hansen: Mr Chair, excuse me. We should have a recess until the quorum call is over. I ask for a recess.

Mr Stockwell: Mr Chair, I just asked you that earlier in the meeting and you said no. Now hold it. Hold the phone here.

The Chair: Let me see if there's agreement on this.

Mr Stockwell: Hold the phone. I asked the exact same thing at the start of this and you said no.

Interjections.

Mr Hansen: Next time can you rule on it, Mr Chair?

The Chair: I was about to do that.

Mr Stockwell: You better check with the clerk next time.

1650

Mr Hayes: Currently the bill permits any planning board or ministry to enter into a subdivision agreement with the owner of the land but does not allow such agreements to be registered against the title. A municipality or approval authority has the ability to require subdivision agreements to be registered against title. The amendment would allow any planning board or ministry to require the registration against the title of any subdivision agreements that they have entered into with the owner.

The changes in subsections 51(19.2) and (19.4) are technical amendments to incorporate the apartments-in-houses provisions from Bill 120.

Mr Grandmaître: Subsection (19.1), is this to accommodate the provision of Bill 120?

Mr Hayes: No, (19.2) and (19.4) do that.

Mr McLean: These are all new subsections, (19.1), (19.2), (19.3) and (19.4)?

Mr Stockwell: I have a question too.

Mr Grandmaître: It doesn't? Is this the answer?

Mr Hayes: From (19.2) to (19.4), it does there.

Mr Grandmaître: That's to accommodate Bill 120?

Mr Hayes: Yes.

Mr Stockwell: Can you tell me what part of this amendment replaces motion 118?

Ms Ross: Originally, we had added in any minister of the crown and the planning board to subsection (19), and then for drafting reasons, we took it out of (19) and created a new (19.1) because it made for better drafting. So all we've done is, we rolled 118 and 119 into one motion and called it 119.

Mr Stockwell: Now, the next question is on (19.1). We never got an explanation from the parliamentary assistant. Maybe he would like to just give us a quick explanation of (19.1). I believe the rest of them deal with Bill 120; (19.1) is exclusive. Can you tell me what the explanation on (19.1) is?

Mr Hayes: As I said before, currently the bill permits any planning board or ministry to enter into subdivision agreements with the owner of the land but does not allow such agreements to be registered against the title. In fact, now this will be done. It will be able to be registered against the title.

Mr Stockwell: What? I don't understand. Sorry.

Mr Hayes: We'll give you a legal opinion.

Ms Ross: Right now, when you enter into plans of subdivision with a municipality or with the minister, they can be registered against title. But in the amendment that we just made to (18)(d), that was providing for any minister of the crown or a planning board to enter into subdivision agreements relating to the unorganized. What this amendment will do is permit those subdivision agreements to be registered against title.

Mr Stockwell: What do you mean any—

Ms Ross: Any minister of the crown, so that would mean perhaps Ministry of Environment and Energy or the appropriate minister.

Mr Stockwell: So you're saying now, on subdivision in unorganized territories, ministries will take up separate negotiations with the people?

Ms Ross: No.

Mr Stockwell: Then why would you want to register separate titles against the land?

Ms Ross: It may be that the appropriate ministry to enter—it depends on what the condition of approval is, but depending on the condition, it may be something that another minister is responsible for and therefore it makes more sense for them to enter into the subdivision agreement than the Minister of Municipal Affairs. That's all. The approval authority would stay the same.

Mr Stockwell: Let me just see if I can get this clear.

You could have actually the Minister of Environment and Energy or Natural Resources or native affairs entering into a subdivision agreement.

Mr McLean: And registered against title.

Mr Stockwell: And registered against title.

Ms Ross: Yes, in the unorganized.

Mr Stockwell: Don't you think that's a little bizarre? You're going to have all this legal staff in all ministries now that are capable of negotiating subdivision agreements? It's certainly a skill that's not widely held with your typical barrister or solicitor you run into.

Mr McKinstry: As Ms Ross said, there are some circumstances where the only major issue in a subdivision might be a particular kind of servicing in the unorganized, remembering there is no municipality.

Mr Stockwell: I understand that.

Mr McKinstry: Therefore, it might be more appropriate for MOEE to enter into an agreement with the subdivider on the delivery of those services because they might be responsible for the actual service.

Mr Stockwell: No. I understand what you said. I understand your words; the words are very understandable. I'm just asking you, would that then mean that Municipal Affairs, environment, resources, native affairs, who knows what else, maybe the disabled, maybe all these ministries that are going to enter into subdivision agreements with the developer could in fact have a raft of lawyers on staff who are going to then negotiate these things and, let's be very clear, negotiate the withdrawal of the land title, negotiate to certain requirements? Once they meet the requirements, I guess they withdraw the restriction.

So you're telling me that all these ministries may in fact have legal staff who are responsible to do that? As of now, we just have Municipal Affairs that can do that.

Mr McKinstry: First of all, the approval authority remains the same, so the approval authority in many cases—here, for example—would be the planning board. We would assume that most of the conditions, most of the agreement would be the planning board. It would be in exceptional circumstances, I think, that another ministry would enter into an agreement.

Mr Stockwell: I can hardly hear you.

Mr McKinstry: Municipal Affairs has very rarely entered into subdivision agreements in the unorganized. That's been a rarity. In fact, in the one instance I can think of, it would have been more appropriate for the Ministry of the Environment. This is not designed to be something that would be used often; it's something that we wanted in the Planning Act for the unusual circumstance.

Mr Stockwell: Yes, I know, but every time a ministry official or a government official or a bureaucrat tells me, "We're not going to use this very often; it's not something we're going to use a lot," I regret those words all the time I hear them. It's like, "I'm from the government; I'm here to help."

Mr McLean: I wanted to get a clarification with regard to the great planning board in an unorganized

territory. I didn't think there were, as of now, planning boards in unorganized territories. I thought there was an individual who was appointed by the minister to look after the unorganized territory as a planning consultant. Are you telling me that there are planning boards in unorganized territories? If there are, who appoints them?

Mr McKinstry: The minister establishes the planning board. Where they are composed of municipalities and unorganized territory, the municipality appoints the reps from the municipality and the minister appoints reps from the unorganized. They exist now; there are many of them in northern Ontario.

Mr McLean: How many are there on that planning board?

Mr McKinstry: It depends on the individual planning board. It depends on the size, the number of municipalities, the number of unorganized townships.

Mr McLean: What's the normal number?

Mr McKinstry: I don't think there is a normal number. Sault north, for example—

Mr McLean: Well, are there two or 10?

Mr McKinstry: Oh no. It would probably be at least one from each municipality.

Mr McLean: If it's unorganized territory, how would you classify it from each municipality? They're not classified as municipalities.

Mr McKinstry: That's right, so in the unorganized areas it could be one from each unorganized township or it could be two or three from the territory as a whole. It depends on the size. As I said, Sault north is a huge area. It goes from Sault Ste Marie almost up to Wawa and it's all unorganized.

Mr McLean: That's right. I was there about two months ago and that was the very issue that they wanted to relate to me, that they weren't happy with the way the planning was done in northern Ontario. There was one man who was dictating what happened. They couldn't get any input from the Ministry of Natural Resources because it didn't want to talk to them. So you're telling me now that there could be two people on the planning board for unorganized territory?

Mr McKinstry: No, there are more than two people on the Sault north planning board. I'm quite certain of that. I don't have the exact figure, but there are certainly more than two.

Mr McLean: But there are some unorganized territories that do have two or less, one or two.

Mr McKinstry: I beg your pardon?

Mr McLean: There are some territories that do have one or two.

Mr McKinstry: Not as far as I know. I don't think any are small enough to only have one or two.

Mr McLean: How many are there in the Sault?

Mr McKinstry: I don't know the exact figure.

Mr McLean: We're not getting any answers here, Mr Chair. You might as well proceed.

The Chair: I think we're ready for the vote. All in favour of the motion? Opposed? That carries.

Mr Hayes: I move that subsection 51(21) of the Planning Act, as set out in section 28 of the bill, be amended by striking out "two" in the fifth line and substituting "three."

This amendment proposes the change to the minimum period for lapsing of a draft approval plan of subdivision from the proposed two years to three years. This was actually requested by the Urban Development Institute because it felt that two years was not sufficient to complete final approval of a plan of subdivision.

1700

The Chair: Discussion? Seeing none, all in favour of the motion? Opposed? That carries.

Liberal motion.

Mr Eddy: I move that subsection 51(21) of the Planning Act, as set out in section 28 of the bill, be amended by adding after "approval" in the third line and in the sixth line "for a water and sewer allocation" in each case.

That is parallel to a previous amendment that was passed to some other section at some other time during the review of this, I think. I can't remember what number it is, but we did debate that and I believe it was an amendment that was passed just a few weeks ago.

The Chair: Is there a comment on this? Does staff have a comment in relation to that?

Mr McKinstry: Yes. The government has a motion on that whereby municipalities will be able to allocate or withdraw allocation of water and sewer. So the government does have a motion that will deal with that issue.

Mr Eddy: In connection with this subsection, do you mean? It's another section, is it?

Ms Ross: It will be in 70.3 of the act and it's on page 169 of your motion book, so we're not there yet.

Mr Eddy: Then we'll have the same effect.

Ms Ross: Yes. It will relate to section 51.

Mr Eddy: Thank you. Withdrawn.

The Chair: Mr McLean, same thing.

Mr McLean: My motion is the same, Mr Chair, so we'll put it over with the other one.

The Chair: Government motion.

Mr Hayes: I move that subsection 51(22) of the Planning Act, as set out in section 28 of the bill, be amended by adding before "extend" in the third line "further."

This is a technical and housekeeping amendment.

The Chair: Discussion? All in favour? Opposed? That carries.

Mr Hayes: I move that clause 51(26)(c) of the Planning Act, as set out in section 28 of the bill, be amended by adding before "comments" in the third line "written."

This is another technical, housekeeping amendment to the bill.

The Chair: Questions? Seeing none, all in favour of the motion? Opposed? That carries.

Mr Eddy: I move that subsection 51(28) of the

Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

“(28) Any person or public body may, not later than 30 days after the giving of written notice under subsection (26) is completed, request in writing that the approval authority refer the decision, the lapsing provision or any of the conditions to the municipal board by filing with the approval authority a notice of referral that must set out the reasons for the referral.

“(28.1) The approval authority may refuse to refer all or part of the proposed decision to the municipal board if any of the conditions described in subsection 17(29) are met.”

Section 28 of course is at the bottom of page 42. This is a request of AMO to amend that section.

Mr Hayes: On the development applications, the government believes that it is more efficient that the public have the right to go directly to the Ontario Municipal Board and that the board is also given its right of dismissal without a hearing. So we feel that we couldn't support this motion.

Mr McLean: There's very little change in this section of the act, and I think what they're saying is, “request in writing that the approval authority refer the decision.” Really, is there anything wrong with adding that one line to this amendment?

Mr Hayes: Do you want to address that?

Ms Ross: What you'd have to do is, you'd have to rewrite the entire section to make it fit in, because the whole section is written as if you have an appeal. If you continue on reading, everything talks about what happens when you've got a notice of appeal and an appeal to the board, so you'd have to amend subsections (21), (26), (27), (30), (31), (32), (35), (36), (37), (38)—well, it keeps on going to the end because we mention appeal in every section.

The Chair: Further discussion? Seeing none. All in favour? Opposed? That is defeated.

PC motion. Same thing, Mr McLean. Thank you for withdrawing that.

Mr McLean: I want to move this motion, Mr Chair.

I move that section 51(28) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

“(28) Any person or public body may, not later than 30 days after the giving of written notice under subsection (26) is completed, request in writing that the approval authority refer the decision, the lapsing provision or any of the conditions to the municipal board by filing with the approval authority a notice of referral that must set out the reasons for the referral.

“(28.1) The approval authority may refuse to refer all or part of the proposed decision to the municipal board if any of the conditions described in subsection 17(29) are met.”

Being that the other one didn't carry, I would like to propose that this amendment carry.

The Chair: Mr McLean, that's out of order.

Mr Stockwell: Why?

The Chair: We've already dealt with this matter. PC motion.

Mr McLean: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following section:

“(28.1) The municipal board is not required to consider an appeal under subsection (28) or subsection 53(11) if the person or public body refused to participate in good faith in alternative dispute resolution techniques under section 65.”

Mr Stockwell: Could I speak to that? As I understand, the municipal board process that's been instituted by one Dale Martin, ex-Metro councillor, ex-city of Toronto councillor, known NDPer—he was the facilitator for the OMB with respect to speeding up the process, and you guys have gone to great lengths to applaud his work. In some instances, I might add, I've not had too many problems in past dealings with Mr Martin. I think he's a fairminded, straightforward individual. Although he tries, and you do too, to take credit for speeding up the OMB, I think the recession had a lot more to do with it than Mr Martin, with the fact that they are hearing far fewer applications.

Having said that, one of the key instruments Mr Martin brought forward—I'm certain Mr Hansen would know this, being a deep thinker when it comes to the municipal board and the appeals and so forth that go on there—one of those particular recommendations he brought forward was a recommendation dealing with alternative dispute mechanism settlements. What this thing did, which I think makes sense, was offer interested parties opportunities to enter into negotiations with a different mediator to see if they could resolve their differences at the dispute mechanism stage rather than getting to a full-blown, costly Ontario Municipal Board hearing.

Mr Hansen, Mr Drummond White and Mr Wilson, all being very close followers of the Ontario Municipal Board and always looking for dispute mechanism settlements, and being deep thinkers in their own right, would all agree that if you're going to do anything with respect to changing the process municipalities go through, you must deal directly with the time-consuming, costly, confrontational process they end up with at the Ontario Municipal Board.

1710

I had a conversation, luckily enough, with Mr Wilson and Mr White the other day, and both of them unanimously endorsed those kinds of recommendations. I can see—this has just been handed to me—that both those two will again be rather disappointed. We just received from Mr Charlton “pursuant to standing order 46 and notwithstanding any other standing order in relation to Bill 163,” and it appears to me they're moving closure on this piece of legislation.

Interjection.

Mr Stockwell: And again Mr White, right on top of things, proving that he's obviously got the pulse of this government at his fingertips, knows first hand that the OMB process would be assisted with this kind of legislation.

I'm deeply disappointed to be handed this. I think we're going to have to take some time in the next 45 minutes to discuss it.

But on the point with respect to the Ontario Municipal Board, as it's probably my last opportunity to speak to important amendments that come before this committee on timely issues like this, even Mr White, Mr Wilson, Mr Hansen and others will agree with this kind of amendment because this amendment is doing what you said was needed at the Ontario Municipal Board, and that is to create a process to facilitate agreement among interested parties before they get to a full-blown Ontario Municipal Board hearing.

Our caucus has thought long about this, we've thought long about Dale Martin's participation in the OMB, we've thought long about this facilitation process, and we think the time has come to expand it. If there's any credit I can give your government—it's not very much, but if there's any—it's the opportune action you took to try and stop the number of vexatious and frivolous applications to the Ontario Municipal Board. I for one am proud to support this amendment and I'd be very shocked if you government members didn't search your souls to support this as well, because this is really something you should be able to buy into, considering your track record and the intelligence that I know members opposite have.

Mr McLean: This is one of the important amendments that AMO wanted passed. There's been a very clear explanation; I don't know how it could be any clearer, given by anyone other than Mr Stockwell. I would urge the government committee members to approve this amendment because it probably will be the last one we'll get to look at.

Mr Hayes: The alternative dispute resolution is working, it's working very well, and we're very pleased we have a person like Dale Martin working there. The members make some good points, but the fact is that we have this mechanism in place and it's a voluntary system, and we don't feel we should legislate or force people to have to go through that type of mechanism. It's there and we will certainly encourage it to be used and we think it will continue to be successful. But we don't feel we can actually legislate to force people to go through the alternative dispute resolution.

Mr Stockwell: A question, then: As I understand it, Mr Martin was suggesting to the parliamentary assistant that in fact it should be legislated, that there should be an alternative dispute mechanism system set up. Is that not true?

Mr Hayes: I can't answer that.

The Chair: Can staff help?

Mr McKinstry: As far as I know, Mr Martin hasn't recommended that it be legislated that people should be dismissed if they did not participate in it. The bill contains a reference to alternative dispute resolution which encourages alternative dispute resolution, but as far as I know, Mr Martin has never said it should be a way that people can be dismissed, because it is participatory and its nature is that you have to come to the table willingly.

Mr Stockwell: All right.

Mr Eddy: That's fine. I well remember the day Mr Martin was appointed, but unfortunately he was appointed to be active in five upper-tier municipalities, I believe it was. Though part of my riding in a certain upper tier had the advantages of his service and I think it did speed it up, unfortunately it had the effect of slowing the process down in many other municipalities. It was like a pilot project and indeed worked, but when it slows it down in other parts of the province, that is totally unacceptable. A case in point is in the very municipality in which I live where there was a certain application, and I think it was delayed considerably because of that.

The other thing is that if you really are in favour of it, I think we should do something about it and I think we should support it now, because it's very, very important. I don't think it's up to Mr Martin, and I wouldn't look to him for a recommendation such as you have before us.

I'd like to point out that many municipalities did practise and put into effect a type of alternative dispute resolution technique; they worked at it very hard and it did work. Unfortunately, on occasion you get either an applicant of an application or objectors to that application who for some reason get their backs up and say, "No, we want to go the legal route." Unless there's some way of edging them into it—and this would. There are many cases where it should be used, could be used successfully, but unfortunately they wouldn't go into it.

I think an amendment like this would give that extra support or nudge so that more would use it. It is a system that could be used far more, should be used far more, and I think the people who do use it would find it a great advantage. But it seems to me to need the support that's set out in this amendment, and I really strongly support it.

The Chair: I think we're ready for the vote. All in favour of Mr McLean's motion? Opposed? That's defeated.

Mr Stockwell: On a point of order, Mr Chair: I was lucky enough to get my hands on Mr Charlton's closure motion. I think it would be only opportune at this time that I fill in the members opposite, who obviously don't have it or don't know anything about it, and maybe yourself and the parliamentary assistant.

Mr Drummond White (Durham Centre): We're dealing with clause-by-clause.

Mr Stockwell: I know, but this is a point of order.

The Chair: Mr Stockwell, I'm not sure it is, but we might as well hear you. Please go ahead.

Mr Stockwell: Thank you, Mr Chair. We have been moved closure by Mr Charlton. The difficulty I'm faced with by this closure motion is that there's a lot of ambiguous statements in here, and I wonder when it is we're going to get an opportunity to determine exactly how we are going to deal with this closure motion. When do you see us being able to debate this, as I see that we should?

The Chair: The problem, Mr Stockwell, is that committee doesn't deal with that.

Mr Stockwell: We have to deal with the ramifications of a closure motion.

The Chair: Not us. This motion is not before this committee to deal with. What is before us is clause-by-clause. If there are repercussions to this, obviously that will be debated in the House at the appropriate time, not here.

Mr Stockwell: Mr Chair, I know this is an unfair debate because I have a copy of the closure motion and you don't. Or do you? I don't know.

The Chair: No, I don't. All I'm saying is that whether it's before you or before me makes no difference in terms of the kind of comment I'm making about this.

Mr Stockwell: Then let me just make this comment and you may change your mind. Mr Charlton has given us some options in his closure motion, and those options are available to us. What I'm saying to you, Mr Chair, is that because of the options he's giving us, he's telling us as a committee to make a decision.

The Chair: I understand what you're saying, but he's not saying this to the committee. This is a matter of debate that goes before the House. It isn't something they're asking committees to discuss. That debate will take place in the House, but not here.

Mr Stockwell: Then maybe you can give me a clarification, Mr Chair. This debate is directing us to do something today.

The Chair: It's not directing us.

Mr Stockwell: Yes, it is.

The Chair: No, it isn't.

Mr Stockwell: There are components within this that direct the committee to make decisions today.

Mr Hansen: Mr Chair, if we get rid of all the amendments, if we get done by 6 o'clock, then we won't need closure, right?

The Chair: True.

Mr Stockwell: Yes, we won't need closure. And you know what? You could save time if you fly home.

1720

Mr McLean: On the point of order, Mr Chair—

The Chair: Hold on, Mr McLean. I just want to read out what it says with respect to notice of motions.

"All notices required by the standing orders of the House or otherwise shall be laid on the table before 5 pm and printed on the Orders and Notices paper for the following day. Government notices of motion shall be distributed by the Clerk to the House leaders of recognized parties in the Legislature at the time of tabling."

Mr Stockwell: Then when is the next day for clause-by-clause of this committee?

The Chair: We would be resuming next Monday.

Clerk of the Committee (Ms Donna Bryce): After constituency week.

Mr McLean: For clarification, our next sitting day is going to be next Monday.

The Chair: No. Next week we're not sitting, so it's the following Monday.

Mr McLean: The following Monday will be our next sitting day, and this says that all amendments must be filed with the clerk of the committee prior to 12 noon on

that day, and at 4 pm on that same day the amendments shall all be put. So we're going to sit for half an hour on the 14th to deal with what amendments there are. Really, what it's going to be about is that the government's just going to bring in a motion and we'll debate it for half an hour until they get it passed, saying that on all the outstanding amendments there will be no further debate and they will be passed. In essence, today is the last day, really, that we're going to debate these amendments.

The Chair: That may be. I'm not entirely sure when that motion will be called.

Mr McLean: Tomorrow.

The Chair: I understand. But what I'm saying as the Chair is that that motion is not for us to debate here in this committee. What's before us is clause-by-clause.

Mr Stockwell: But, Mr Chair, with all due respect, Mr Charlton is saying "that the committee be authorized to continue to meet beyond its normal adjournment if necessary until consideration of clause-by-clause has been completed." If on our next meeting day, which is two weeks from yesterday, he tells us we start at 3:30 and we're done at 4, when is it we have the opportunity to meet beyond our normal adjournment times except today?

The Chair: All I'm saying is that that's something that would be debated in the House by you and others with respect to the questions you're raising.

Mr Stockwell: I submit, Mr Chair, that what he's saying is that today we can meet beyond the normal adjournment times.

The Chair: That motion has not gone through the House for that kind of debate, so for us to anticipate what it might be saying or what will likely result from it is a problem. You're repeating the questions in a way that I get to repeat the same answers, Mr Stockwell. What I'd like to do is move on with this clause-by-clause and deal with the questions that raises when we get into the House.

Mr Stockwell: This is a bizarre motion.

The Chair: That may be, Mr Stockwell.

Mr Stockwell: It says we can meet beyond the committee regular adjournment hours, but the first time we get to meet, he's saying we have to deal with it all by 4. What kind of bogus motion is that?

The Chair: You'll be able to debate that in the House, as I've said, Mr Stockwell.

Mr Stockwell: I think you should be embarrassed, as a member of the government, that he brings this thing forward.

The Chair: Mr Stockwell, I thank you for those opinions. We're going to move on, all right? Government motion.

Mr Hayes: I move that subsection 51(34) of the Planning Act, as set out in section 28 of the bill,

(a) be amended by adding after "changes" in the sixth line "containing the information prescribed"; and

(b) by striking out clause (d).

This amendment would provide that written notice of changed conditions relating to a draft approved plan of

subdivision be prescribed. It also deletes clause (d) so that notice of changed conditions would not be given to all that have made written submissions. The bill proposes to give notice of changed conditions to all, but since the principle of the development is already established through draft approval, the giving of notice of the changed conditions should be limited to the applicant, the affected municipalities, the person, the public body requesting the change, and those persons who asked to receive notice of any changes.

Mr Stockwell: How is this different from what was proposed?

Mr McKinstry: The proposal in Bill 163 was that everybody who had been involved would have to receive notice. What we heard from AMO, among others, and many of the municipalities was that the list of people could be so extensive that it would be very difficult to give the notice. We're proposing to limit the notice to those who have requested further notice, so only those people who really want to get it will get it.

Mr Stockwell: Then let me ask you this: According to this, if you had a public hearing and 600 people showed up to the public hearing, now you're going to give notice—you're amending by adding "the information prescribed" and striking out (d), so you would then determine who would get notification, correct, with this change?

Mr McKinstry: Right.

Mr Stockwell: Of those 600 people who came to the public hearing, how many of them would get notification?

Mr McKinstry: It would be the folks who had asked for notification specifically.

Mr Stockwell: So if you're wise enough to know to ask, you'll get notification. At a public hearing of 600 people, probably 550 wouldn't be smart enough to know that you've got to ask to get notification of change. You're saying you're just going to leave them out in the cold, make changes and not tell anybody who attended a public hearing. That doesn't seem very NDPish to me. It's usually printed in about eight languages.

Mr McKinstry: Everybody would get notice of the original decision. This is notice of changes. In the original decision it would advise people that they would have to specifically request notice of changes.

Mr Stockwell: Changes of the original decision? Well, what if those changes are what you would consider fairly large? What if the changes are very significant? You still wouldn't notify most of the people, would you? I don't think I like that. What if there are significant changes?

Mr McKinstry: Right now there would be no notice of changes. In a subdivision approval right now, if there's a change to the draft approval, there is no notice at all. We're proposing to add some notice, and all we're saying is that the notice should be limited to the people who ask for the notice specifically.

Mr Stockwell: So what you're saying is this: A subdivision approval process goes through now. The decision is rendered and agreed to. There are then—what

do you talk about?—minor variances or changes to the original approval.

Mr McKinstry: There are often changes to approvals. For example, when the actual survey gets done there have to be some of what are known as red-line changes.

Mr Stockwell: But what is the definition of a change? Where does a change become a small, minor change and where does it become a fairly major change?

Mr McKinstry: That is exactly why this issue's being addressed. It could be a major change, so we wanted to make sure that people who were interested would get notice of that change.

Mr Stockwell: You're saying that as of today, if there's a major change in a subdivision approval, nobody gets notified, it just gets approved?

Mr McKinstry: That's correct.

Mr Stockwell: What is the governing body that approves that change?

Mr McKinstry: Whatever the approval authority is. It could be the minister, it could be a region, it could be a city.

Mr Stockwell: If it's a city, you can almost bet people will be notified of the change, because they've got a local councillor who's looking out for their interests. If it's a region, you can almost bet people will be notified of the change, because they have a regional councillor looking out for their interests. If it's the minister, you can almost bet they won't be notified of the change because nobody's looking out for their interests. I'm asking you, under your format, who makes this change and who's looking out for the people's interests as to whether or not it's significant?

Mr McKinstry: What I'd said before was that we're changing the scheme because we felt there could be major changes without notice, although obviously there could be notice. However, in the future under the new Planning Act, Bill 163, everybody who wants notice gets it and they get to make their own decisions on whether that change is significant or not.

Mr Stockwell: I guess I'm asking you, who's making the decision on the change? Right now, if the minister makes a decision and they make a change, the minister then makes the change, period, case closed, and no one gets notified.

Mr McKinstry: It's possible that if it was a very, very major change there could be notification, but currently there's no requirement in the act for notification.

Mr Stockwell: If a council makes a change, they're not required to notify?

Mr McKinstry: That's right, not currently.

Mr Stockwell: And if the local council makes a change, they're not required to notify?

Mr McKinstry: No.

Mr Stockwell: In the future, if any of these bodies make a change, they're required to notify under these particular—

Mr McKinstry: Yes, for subdivisions.

Mr Stockwell: Okay. I'm satisfied.

Mr McLean: Mr Chairman, in the essence of time and what's gone on here—we have 128 amendments yet—I'd make a motion that all the amendments in this package be carried.

The Chair: Mr McLean, we have a motion before us that we need to deal with, so your motion is out of order.

Mr Stockwell: A motion for a vote is always in order, Mr Chair.

1730

The Chair: We have a motion before us to deal with. We can never deal with another motion like that as we have a motion that we haven't dealt with yet.

Mr Stockwell: We'll move to defer then.

The Chair: You might want to do that afterwards. Are we ready for the vote on this?

Mr Stockwell: Okay, that's fine. Move it right after ours.

Mr Hayes: Mr Stockwell said he was satisfied with this. That's good.

The Chair: All in favour of the motion?

Mr Hansen: Read the motion.

The Chair: All in favour of Mr Hayes's motion? That carries.

Mr Stockwell: Pardon me, Mr Chair, Mr Hansen had a request to read the motion again, I think.

The Chair: Once I said, "All in favour of Mr Hayes's motion," I didn't hear any opposition to that.

Mr Hayes: He can take it with him and read it in his spare time if you like.

Mr Stockwell: He said before that actually, "Read the motion over."

Mr Hansen: That was talking out loud.

The Chair: Were you requesting—

Mr Hansen: No, no. I was talking out loud.

The Chair: Very well. Thank you very much.

Mr Hayes: He can read it in his spare time.

Mr Stockwell: When someone talks like that, I think that's a request.

Mr McLean: I'd like to make a motion that all the remaining motions we have filed with us be carried.

The Chair: All in favour of the motion?

Mr Stockwell: Hold it. I think there's some debate there.

Mr Hayes: Could I amend?

Mr McLean: No, there's no debate. Just pass them all.

Mr Stockwell: It seems to me that we are now under the guillotine of the closure motion, and Mr McLean is offering up what I consider to be a fairminded compromise to the situation. Mr McLean is suggesting that all the motions and amendments that have been put forward by all three parties be brought forward to the Legislature for full and frank debate. That means if we adopt them all, we can then have a fairly comprehensive discussion in the Legislature about the merits of the amendments

that we didn't get an opportunity to debate here today and, since we have a closure motion, will not get the opportunity to debate.

I think any fairminded, reasoned individual, particularly one who is elected by the people of this good province, would want every MPP to have the opportunity to speak to the hard work and amendments they've put into this.

I could only think that it will carry, because I know the goodwill of the government and I know the goodwill of you, Mr Chair, and the parliamentary assistant. I know you would think it would be undemocratic and fundamentally unfair not to have the minority, such as us, given the opportunity to speak to their amendments and offer alternatives to a government bill that most in this province would consider to be somewhat flawed.

I'll support Mr McLean. I think it's a prudent, fairminded, reasoned approach to a rather difficult, sticky situation the government House leader has put us in with his rather draconian, unreasonable rationale for bringing in closure.

I might add, it seems to me that if you people had come back to work when you were supposed to come back to work, we could have gotten through this. But seeing as how you dilly-daddled around all summer, you floated here and there, you chose not to come back to work and you abdicated your responsibilities, we are now forced into the very unenviable task of having to cram in a whole bunch of work on this committee and other committees into a very compressed four-week period.

No one's responsible for that except you the government. It wasn't us who didn't want to come back to work; it was you people who didn't want to come back to work. Because you didn't want to go to work, you didn't want to get out of bed and go to work every day, because you didn't want to do that, we're faced with the unenviable task of dealing with hundreds and hundreds of amendments in a compressed period of time.

I will say, considering the fact that you people chose not to come back to work, it would seem fairminded of you to give us the opportunity to deal with these amendments that we put forward so thoughtfully and in good spirit. As Mr Rae would say, we've been kneecapped here in not being allowed to have heard what I think are germane, reasoned responses.

The Chair: Seeing no further discussion—

Mr Stockwell: I think that'll inspire something.

Mr Hansen: I just have a few suggestions. This is talking out loud again, but possibly, Mr Stockwell, you could wind up coming next week. The committee could sit next week. What we could do is pass all the government motions today, move them, and then we can discuss the opposition, the Liberal and Conservative, amendments next week. How does that sound?

Mr Stockwell: This member opposite is saying we should move all the government amendments while we sit under a closure motion by your House leader. Further, we move all the government amendments and then you give us an opportunity to discuss ours. What kind of compromise package is that? Do everything I ask you to do and

then we'll think about talking about your ideas? Get a grip.

As far as I'm concerned, it's your House leader who's telling us to shut this committee down, shut the democratic process down, because you people won't get out of bed and go to work for four weeks when you should have been. That's a frivolous offer. Why would we pass all the amendments by the government and then hope against hope that you'll have concern for our position, even give us consideration, when you haven't voted for one single amendment and some of them have been reasonable, very reasonable.

I'm distressed that the member opposite would make such a cavalier suggestion and treat it in such a mocking fashion when democracy is being usurped because you've got a House leader moving closure and we've got a government that won't come to work when it's supposed to. My God, I thought these people were hardworking people. If this is the way you treated your jobs in the private sector, you wouldn't have any. Four or five weeks you don't go to work, for heaven's sake, you wouldn't have a job when you finally did.

Mr Eddy: I just say that Mr Stockwell makes some good points. I don't know that I can really support all of his views. I would like to say that part of the floating around was holding hearings by the committee and hearing many, many delegations and citizens and, of course, caucus representatives took part. That was very good because many of the amendments—I know some of the government amendments are technical amendments, but many of them are in response, as you have stated, to the hearings, so we have some information.

We do know that the government amendments can and shall be carried one way or another. We know that you're prepared. It leaves a great concern about the amendments proposed by the opposition parties and I think they should be considered and hopefully passed, at least some of them.

Quite a bit of our time has gone to dealing with considering and approving government motions, some of which were technical in nature of course, which happens with any bill, but the government does have an awful lot of amendments to this bill. I appreciate some of them, that they're here in fact, especially if they are in response to the views of the Association of Municipalities of Ontario, individual municipalities, citizens of the province and others. But it has taken a lot of time, and I have to also state that the bill deals with much more than the Planning Act itself, the disclosure, and we need to discuss that so that we're all clear when it comes to third reading debate in the House.

I really feel the need of the time required to go through the additional amendments and hope that we can have the time for the committee to discuss all of them in order as we go along, because it is a learning experience and considerable time is spent in getting explanations from staff through the parliamentary assistant, which is of great advantage, I think, to all of us. Whether we agree or not, it's still very helpful to understand the bill. We really do think we should be dealing with all of the amendments being proposed by all three of the parties.

The Chair: Seeing no other speakers, all in favour of Mr McLean's motion? Opposed? Mr McLean's motion is defeated.

We have a Liberal motion.

Mr Eddy: Withdrawn.

Mr Stockwell: Mr Chair, could we move some amendments out of order now just so we could get some important amendments that we want to make on the record?

The Chair: What do you want to do again, Mr Stockwell?

Mr Stockwell: Well, we have some important amendments that we would like to get on the record.

The Chair: Is there unanimous consent to do that?

Interjection: Why don't we just keep going?

Interjection: We passed all the government motions.

Mr Stockwell: The government motions are going to pass.

1740

The Chair: Mr Stockwell is suggesting that we move on to some other amendments that some of you may want to deal with and for that we need unanimous consent. Is there unanimous consent?

Mr McLean: I have a major amendment.

Mr Stockwell: Okay. I accept that. Liberal amendments too. We'll take turns.

Mr McLean: I have a major amendment.

Mr Stockwell: All the government motions are going to pass.

The Chair: All I need to do is to hear whether there's unanimous consent or not.

Mr Hayes: No.

The Chair: Okay. I didn't hear that very clear. Moving on.

Mr Stockwell: Why? Your motions get passed anyway at 4 o'clock next Monday.

The Chair: Chris, please. PC motion.

Mr McLean: I move that section 2 of the Local Government Disclosure of Interest Act, 1994, be amended by adding the following subsection:

"Non-application

"(2.1) This act does not apply to councils or boards of municipalities that have a population of 30,000 or less."

That motion is schedule B to the bill, subsection 2(2.1) of the Local Government Disclosure of Interest Act, 1994.

The Chair: Mr McLean, that's out of order. I'll bring you back to page 130. Could you read that motion.

Mr Stockwell: Why is that out of order?

The Chair: We are on motion page 130.

Mr Stockwell: Do you think we're going to cooperate with you?

The Chair: PC motion, section 28 of the bill, subsection 51(34). That's where we're at.

Mr Stockwell: This is ridiculous. All we asked is to move our motions. Yours are going to carry anyways.

The Chair: But Mr Stockwell, we've had a vote. Once we've done that, we move on.

Mr Stockwell: No, you asked for unanimous consent and those small-minded sorts across the table won't agree to that.

The Chair: We've dealt with that. Mr McLean with your motion.

Mr McLean: I move that subsection 51(34) of the Planning Act, as set out in section 28 of the bill, be amended by striking out clauses (b) to (f) and substituting the following:

"(b) the public body which has changed the condition to the approval; and

"(c) the municipality in which the land to be subdivided is situate."

I think there's not a lot of debate on that, so we'll just pass it.

The Chair: All in favour of the motion? Opposed? It's defeated. PC motion.

Mr McLean: I move that subsections 51(34) and (35) of the Planning Act, as set out in section 28 of the bill, be struck out.

Mr Stockwell: Can we have some comment from the legal staff with respect to that amendment?

The Chair: Ms Ross? He was asking for a legal opinion on that.

Ms Ross: What did you want to know?

Mr Stockwell: I want to know whether you think it's a good idea or not.

Ms Ross: What it would do is it would say you don't have to give any notice of change to anybody.

Mr Stockwell: Excuse me, I didn't hear you.

Ms Ross: If you struck out subsection 51(34), then you wouldn't be required to give any notice of change, which is what we just previously discussed.

Mr McLean: That's "If the approval authority changes the conditions to the approval of a plan of subdivision under subsection (33) after notice has been given under subsection (26), the approval authority shall, within 15 days of the decision, give written notice of the changes." Is that the one that's in there now? That's the one we want to amend.

Ms Ross: You're striking it out. Your new motion is striking out. It's 51(34).

Mr McLean: That's right. I agree with that.

The Chair: That's what he wants to do. All in favour of this motion? Opposed? That's defeated.

Mr Hayes: I move that section 51 of the Planning Act, as set out in section 28 of the bill, be amended by adding the following subsection:

"No notice

"(35.1) An approval authority is not required to give written notice under subsection (34) if, in the opinion of the approval authority, the change to conditions is minor."

This amendment is requested by the Urban Development Institute, the regional planning commissioners and

the Ontario Home Builders' Association. The amendment would give the approval authority some flexibility to allow minor technical changes such as a lot line realignment to be approved without going through the extensive notice requirement, thereby streamlining the process.

Mr McLean: I think that's the best motion I've heard today.

The Chair: All in favour of this motion? It's unanimous. Government motion.

Mr Hayes: I move that subclause 51(41)(a)(iv) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"(iv) the proposed subdivision is premature because the necessary public water, sewage or road services are not available to service the land covered by the proposed subdivision and the services will not be available within a reasonable time."

This is also supported by the Canadian Bar Association and many others.

Mr McLean: What's the definition of "reasonable time"? I've asked that before.

Mr Hayes: Well, it's the opposite to some of the things that are going on here today.

The Chair: All in favour of the motion?

Mr Stockwell: Hold on. He asked a question: reasonable time. He wants an answer to that.

Mr Hayes: I just gave it to him.

The Chair: Mr McLean laughed, and I thought that was—

Mr Stockwell: Well, he was funny.

Mr Hayes: Say, for example, you had a municipality and its sewage system was filled to capacity and someone said, "We want to get this development through," yet it had no plans to expand or add capacity to that sewage treatment plant, it wouldn't be able to do it in a reasonable length of time. But I do feel it is something—those decisions would be made, actually, locally.

Mr Stockwell: Can I just make this point? This situation is exactly the case that's happened in Metropolitan Toronto for a considerable number of years. There's a portion of North York—I don't think there are any members here from North York—that has been frozen, from a development point of view, because it doesn't have the trunk sewer lines for development. Maybe Mr Marchese would know about it. It hasn't happened in a goodly number of years, at least 10 years. As I understand it, they're under the same framework, are they not, with reasonable time?

The difficulty I'm faced with is that "reasonable time" means a lot of different things to a lot of different people. When you talk to a developer, "reasonable time" means one set of time, and when you talk to a socialist who's opposed to development of anything—

Mr Hayes: That's not true, first of all. Go ahead.

Mr Stockwell: I'm saying a socialist who's opposed to development in Toronto of anything—"reasonable time" means never. I'd like a definition. Since "reasonable time" hasn't seemed to work very well in the

development sites I've seen, I think we need to quantify this. What is a reasonable length of time a municipality has to facilitate a development with respect to sewage setup and so on and so forth? Is it five years, is it two years, is it three years, is it 25 years?

The Chair: Response, if any?

Mr McKinstry: This is specifically a power for the municipal board, so it's when an application comes to the municipal board. It's also a power they may or may not use. In other words, the bill had in it the word "premature," so the board could dismiss it if in its view it was premature.

We were told by a number of parties, particularly the law association, that that was too wide and discretionary a power. That's why we narrowed the power to talk about services.

Mr Stockwell: But the question stands. I don't believe this to be the case. I don't think the Ontario Municipal Board has the power to direct a municipality to put in trunk sewer lines and it doesn't have the power to direct a municipality to develop a parcel of land, so what the hell good is it?

Mr McKinstry: You're quite right: The board does not have that power. All this power is, is to say that if an applicant brings a subdivision forward to a municipality and it ends up getting appealed to the Ontario Municipal Board, the board can say: "You have no chance of getting services in any reasonable period of time. It's therefore a waste of our time to consider this and you're dismissed." That's all this says.

Mr Stockwell: So development can be frozen completely by local municipalities because of their unwillingness to develop the proper sewers and so on to meet the requirements set down by the Ministry of Environment. Is that what you're saying?

Mr McKinstry: I guess there are a couple of points there. First of all, you can't develop a subdivision in an urban context, where one would expect to have services, without services. But also, the municipality has the power to decide where its services go. This is a separate power to the board: If the board has seen that the municipality has no services, it will be impractical to have a subdivision go ahead.

Mr Stockwell: I know that. I guess the question I'm asking is that municipalities therefore can freeze huge parcels of land, although they're zoned, owned and properly developable, by simply not bringing out the trunk sewer lines. Is that true? And you're not dealing with that.

1750

Mr Hayes: Mr Stockwell brings up a valid question. At the same time, I don't know how we can say to that local municipality, "You shouldn't be playing politics with this developer" or "development in the area." I don't know you can actually stop that.

Mr Stockwell: I know how.

Mr Hayes: As I think has been mentioned, the OMB can't, for example, go to a municipality and say, "You've got to put in a sewage treatment plant to accommodate somebody's proposed development."

Mr Stockwell: I think I know how, and maybe this'll help you out a little bit.

Mr Hayes: We're open to that.

Mr Stockwell: All the official plans need to be approved by the government or the OMB or whatever process is used. If the official plan designates a site as a commercial, industrial, residential, multi-use site, it would seem to me that the OMB would then say, "If you're going to zone this property like that, you'd better have plans to be able to develop this site," rather than simply putting a stamp of a zoning on it—but with no real hope of rezoning—therefore getting developers or people interested in property. Maybe that's how this process should work, maybe this is the amendment that should be included to expand that.

Outside the GTA, outside of Metro, there are all kinds of parcels of land that are developable except that the municipality won't bring out the darned sewer lines. It's freezing whole tracts of land for no other reason than that a few local yokels are opposed to development.

Maybe that's food for thought for the parliamentary assistant. I think if you're going to go forward with this, you could deal with this through the official plan process, which has to be approved at the OMB and the government level.

Mr McKinstry: I only want to make one small clarification: If the land is zoned, the owner of that land can go to court and get a mandamus for a building permit.

Mr Stockwell: Sure he can get a building permit, but what's he going to connect the sewer to?

Mr McKinstry: But it seems unlikely that the zoning would be in place if there were no sewers. I mean, there's a designation of the zoning. I just wanted to clarify the zoning.

Mr Stockwell: Maybe I'm saying they're freezing huge tracts of land, and the reason they're freezing is because they aren't going to rezone it when it should practically be rezoned. I'm sure Sewell wouldn't agree to that. He wants intensification, which means apartments above beer stores.

The Chair: I think we're ready for the vote on this. All in favour of this motion? Opposed? It carries.

A government motion.

Mr Hayes: I move that clause 51(41)(b) of the Planning Act, as set out in section 28 of the bill, be struck out and the following substituted:

"(b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the approval authority before it gave or refused to give approval to the plan of subdivision and, in the opinion of the board, the appellant does not provide a reasonable explanation for having failed to make a submission;"

In other words, the amendment provides the person or public body the opportunity to provide a reasonable explanation for having failed to make a submission to council before adoption.

The bill specifies that an appeal can be dismissed by the Ontario Municipal Board if the appellant did not bring his or her concerns to the attention of the approval

authority early in the process. The amendment provides the opportunity for the appellant to provide an explanation as to why he or she was not able to participate earlier. It actually responds to concerns by community and environmental groups that there could be legitimate reasons why people did not participate early in the process.

Mr Stockwell: That's the question I have. For instance, say you don't find out land is contaminated until very far into the process and now you find out you've got contaminated land. Would they be heard, or could they be dismissed because they weren't there early?

Mr Hayes: That would be a reasonable reason for not participating in the first place, and they would be heard.

Mr Stockwell: Who would make the decision on whether it's reasonable or not?

Mr Hayes: The OMB would make that decision.

Mr Stockwell: So the OMB gets to make the decision about whether the reason you weren't there early enough is a good reason or a bad reason. My history with the OMB is that the OMB is going to hear these things and everybody's reason is going to be reasonable, just like it doesn't dismiss things that are frivolous and vexatious. This isn't worth the paper it's printed on.

The Chair: Further discussion? All in favour of Mr Hayes' motion? Opposed? That carries.

Mr Hayes: I move that subsection 51(42) of the Planning Act, as set out in section 28 of the bill, be struck out.

The rationale is that a public body should be subject to the same rule as a person. If there are concerns about a subdivision application, they should bring their concerns to the approval authority before a decision is made.

Mr Stockwell: This subsection is suggesting they have to bring their concerns before a decision is made. Is that what you said?

Mr Hayes: Mr McKinstry will answer.

Mr Stockwell: No, Mr Hayes just said it. Is that what you said, that they have to bring their concerns before a decision is made?

Mr Hayes: They should bring their concerns to the approval authority before a decision is made, yes.

Mr Stockwell: So if they don't bring their concerns to the approval body before the decision is made, then what happens?

Mr Hayes: Now Mr McKinstry will take over.

Mr McKinstry: They could be dismissed.

Mr Stockwell: By?

Mr McKinstry: By the OMB.

Mr Stockwell: So here we are again. The OMB gets to make a determination on whether these people should have brought their concerns before the authority before a decision was made, and if it feels they have reasonable cause for not bringing those concerns forward, it can in fact hear them at the Ontario Municipal Board?

Mr McKinstry: This is a slightly different clause. The bill read initially that if people did not bring their

concerns forward they could be dismissed, but that did not apply to public bodies. If a ministry of the crown, for example, did not participate early, it could object later and it couldn't be dismissed. What we heard at the hearings was that public bodies should be subject to the same rules, so we're simply saying they are subject to the same rules.

Mr Stockwell: Really what it comes down to—it seems like a ministry motion. If the Minister of Municipal Affairs, who appoints the members to the OMB, somehow finds something that slips through the cracks and wants to appeal to the OMB, those people he's appealing to, whom he also happens to appoint, could in fact tell him to get lost because he's too late. Yeah, right.

Mr Hansen: I support this one. I see it's a PC motion also.

Mr Stockwell: I'm not arguing. I just asked about the Ontario Municipal Board with respect to the ministry. What are the chances they're going to dismiss the ministry? I don't think it's very good.

Mr Hansen: I'm going to support this one.

Mr Stockwell: What I'm saying, Mr Hansen, is that maybe the minister shouldn't be appointing the people to the body to which he's appealing. That's rather in-depth.

The Chair: Mr Eddy, you're on the list.

Mr Eddy: Oh, thank you very much. I speak so rarely that it's nice to have the opportunity on the important matters, and certainly this is one.

We heard this on many, many occasions, and I really do agree with it. I guess the classic case was Scarborough versus the Metro planning commissioner, if I can term it that way, that brought it to my mind. Of course, I don't know all the particulars about it, but it's very important that everyone who has an interest or a concern be at the meeting and be heard if they wish to be, so that all the viewpoints and suggestions can be considered at the one time. It's so very important. This is an important amendment that I support.

The Chair: All in favour of this motion? Opposed? That carries.

Mr Eddy, you're withdrawing the next two, I presume.

Mr Stockwell: Hold on, Mr Chair. I think it's 6 o'clock.

The Chair: As soon as the House adjourns, we'll know. Mr Hayes, do you have something?

Mr Hayes: I'd just like to comment that it shows the government is listening: We have similar motions to the Liberals and the Conservatives, and we've done this on a regular basis.

Mr Eddy: I agree with the Chair's decision on this amendment to withdraw.

The Chair: All right. I think we're ready to call the vote on section 28, as amended. All in favour? Opposed? That carries.

I don't think we'll have time to get into section 29, so what I'd like to do is adjourn at this point.

The committee adjourned at 1758.

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- *Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND)
 - Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cleary, John C. (Cornwall L) for Mr Curling
Cooper, Mike (Kitchener-Wilmot ND) for Ms Harrington
Eddy, Ron (Brant-Haldimand L) for Mr Murphy
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Chiarelli
Hansen, Ron (Lincoln ND) for Mr Winninger
Hayes, Pat (Essex-Kent ND) for Mr Bisson
McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson
Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Harnick
White, Drummond (Durham Centre ND) for Mr Malkowski

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister
McKinstry, Philip, acting director, municipal planning policy branch
Ross, Elaine, legal counsel

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel

C120N
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-577

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Publications



J-83

J-83

ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 14 November 1994

Standing committee on
administration of justice

Planning and Municipal Statute Law
Amendment Act, 1994

Chair: Rosario Marchese
Clerk: Donna Bryce

Journal des débats (Hansard)

Lundi 14 novembre 1994

Comité permanent de
l'administration de la justice

Loi de 1994 modifiant des lois
en ce qui concerne l'aménagement
du territoire et des municipalités

Président : Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Monday 14 November 1994

Lundi 14 novembre 1994

*The committee met at 1526 in room 228.*PLANNING AND MUNICIPAL
STATUTE LAW AMENDMENT ACT, 1994
LOI DE 1994 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'AMÉNAGEMENT
DU TERRITOIRE ET DES MUNICIPALITÉS

Consideration of Bill 163, An Act to revise the Ontario Planning and Development Act and the Municipal Conflict of Interest Act, to amend the Planning Act and the Municipal Act and to amend other statutes related to planning and municipal matters / Projet de loi 163, Loi révisant la Loi sur la planification et l'aménagement du territoire de l'Ontario, la Loi sur les conflits d'intérêts municipaux, et modifiant la Loi sur l'aménagement du territoire et la Loi sur les municipalités et modifiant d'autres lois touchant des questions relatives à l'aménagement et aux municipalités.

The Chair (Mr Rosario Marchese): I call the meeting to order. Mr Hayes has a motion.

Mr Pat Hayes (Essex-Kent): Thank you, Mr Chair. What I want to do is ask for an agreement by the committee to bring forward amendments on page 162, section 37.1; page 180, section 52; page 186, section 57.1; and page 189, section 62.1, in order that unanimous consent may be given to deem them in order.

Mr Jim Wiseman (Durham West): Agreed.

Mr Allan K. McLean (Simcoe East): Well, just a minute. Have you got a copy of what he was just talking about? I'd like you to show me the page where these amendments are that you're reading off. I mean, we're not just all sitting here like dummies.

Mr Hayes: I don't want you to be that way, Mr McLean.

The Chair: That's fair, Mr McLean. Mr Hayes will find it.

Interjections.

The Chair: Please, a bit of order. We're trying to move this along.

Mr Hayes: I think Mr McLean's got a legitimate concern. Page 162 is the first one.

Mr McLean: Of which book?

Mr Hayes: Of our big book, our book of motions.

Mr McLean: Okay. So that's government motion number 162?

Mr Hayes: Yes. The next one is on page 180, and the one after that is—

The Chair: Give him a chance. He wants to look at them.

Mr Hayes: Sorry. Page 162: You've got that one? That pertains to fines. Page 180, section 52, is the Trees Act. Page 186, section 57.1, is the Condominium Act. Page 189, section 62.1, is the Lakes and Rivers Improvement Act.

The Chair: Mr McLean, I suppose you are considering this matter. Is that what's happening?

Mr McLean: Yes, I am. To the parliamentary assistant, section 52 of the bill, section 223.2 of the Municipal Act, has to do with "...having a population according to the last enumeration taken under section 15 of the Assessment Act that exceeds 10,000, may pass bylaws."

Mr Hayes: Yes.

Mr McLean: I have some questions on that and I'm wondering if I could get a clarification. This figure of 10,000 bothers me somewhat, and I'm wondering if it wouldn't be possible that regulations could be drafted to deal with this issue instead of having it in legislation.

Mr Philip McKinstry: There are a couple of things I want to say there. One is that in legislation there needs to be clear authority for what you're going to do. The legislation itself needs to address which municipalities specifically have this power, so that's why the 10,000 is in the legislation.

In terms of the reason we put in the 10,000, there was some concern in the rural parts of the province that this kind of authority should not be applied to them, and therefore the government decided that a threshold of 10,000 would allow larger, more urban municipalities to use this power, and smaller municipalities may not need it.

Mr McLean: What would happen in a case such as the town of Penetanguishene, with a population of approximately 6,000? They would not be part of this legislation?

Mr McKinstry: That's right. Penetanguishene would not have the authority to pass bylaws to control tree-cutting.

Mr McLean: I think that's where the problem is. A lot of these small municipalities, small towns and hamlets would like some type of legislation that they could pass bylaws. I think rural Ontario wants to be left alone with regard to tree-cutting bylaws, the farmers, but small-town Ontario is looking for some protection. This doesn't address that small-town Ontario population, right?

Mr McKinstry: What it does is simply gives a threshold and says that smaller municipalities don't have this power.

Mr McLean: That's right. They have no power. They won't have any bylaws.

Mr Hayes: They're going to have the power coming through private bills and regulations.

Mr McKinstry: Yes, or the Trees Act.

Mr McLean: If they have power through regulations, then what's the point of putting it in here? Why can't the rural people have power with the regulations, the same as the small town can?

Mr McKinstry: I think any municipality can apply for private legislation. Private legislation could apply to any municipality.

Mr McLean: That's happened a lot in the past. They've come and applied for a private member's bill to be able to do that.

The Chair: Did you want to respond, Mr Hayes?

Mr Hayes: Dealing with this particular issue, I think it's only fair that we let all members know that it was quite a controversial issue.

There are some who wanted to give the authority to all municipalities and then of course there are others who didn't want it that way, and of course there was the concern about rural Ontario. I know that one of the farm organizations had some concerns with it. That's why we went to the 10,000, so it actually would exempt a lot of those municipalities that really didn't want to deal with the issue.

Mr Ron Eddy (Brant-Haldimand): Perhaps we're discussing something that is not before us. However, I'd continue in that vein because I have an important legal question: how a section like this in the Municipal Act fits in with the Trees Act.

If an upper tier has a bylaw passed and approved under the Trees Act, that would govern the local municipalities. This would allow the local municipalities in a county over 10,000 to also pass a bylaw. So then the point comes up about conflict between the two. Does the upper tier, if there is one—and I know that's optional—perhaps take precedence over any local bylaw?

I have another point. As you know, when an upper-tier municipality passes a bylaw under the Trees Act, it's a very complicated matter. It even deals with the penalties that can be imposed, such as replanting an area, with or without a fine, or indeed a fine only, and all sorts of things. It's quite a complicated act and procedure. There are provisions for hearings by land owners if they wish to apply to remove a portion of a woodlot for some reason or other, but it does not adversely affect a property owner who wishes to cut trees, under specified sizes, for his or her own use. Of course, that's another thing: There are all sorts of sizes of specific trees listed.

Could I have some comment on that, just to be clear?

Mr Hayes: On the first part of your question, dealing with the conflict, "If there is a conflict between a bylaw passed under subsection (1) and a bylaw passed under the Trees Act, the provision that is the most restrictive of the injuring or destruction of trees prevails." That's subsection (14).

The other question is in subsection (17): "If a person

is convicted of an offence under a bylaw passed under subsection (1), the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to replant or have replanted such trees in such manner and within such period of time as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees or have the trees re-established." So that addresses that.

Mr Eddy: Thank you. I think that clears up the points I have, as far as I know.

The Chair: Any further discussion on this side? No? All right. Mr McLean, Mr Eddy and Mr Curling, do we have unanimous consent to deem this in order?

Mr Alvin Curling (Scarborough North): What were we deeming in order?

Mr Hayes: The four amendments.

Mr Curling: To present them?

The Chair: Yes. So there is unanimous consent to bring them forward. Part of the motion is to consider the issue of deeming them in order. Should we put the motion again, Madam Clerk?

Clerk of the Committee (Ms Donna Bryce): If there's unanimous consent to bring them forward, at this point Mr Hayes would read them into the record and then they would give unanimous consent to deem them to be in order.

The Chair: All right. Mr Hayes, would like to read them for the record?

Mr Hayes: Each motion?

The Chair: Yes.

Mr Hayes: We're on page 162 of the government's amendments. I move that the bill be amended by adding the following section:

"37.1 The act is amended by adding the following section:

"Proceeds of fines

"67.1 If an offence has been committed within a municipality under section 31, 41, 52 or 67 or under a bylaw passed under section 34 or 38, and a proceeding in respect of the offence is undertaken by the municipality and a conviction has been entered, the proceeds of any fine in relation to the offence shall be paid to the treasurer of the municipality and section 2 of the Administration of Justice Act and section 4 of the Fines and Forfeitures Act do not apply in respect of the fines."

1540

This is amendment number 180, the trees.

I move that section 52 of the bill be amended by adding the following section to the Municipal Act:

"Bylaws respecting trees

"223.2(1) The council of a local municipality, having a population according to the last enumeration taken under section 15 of the Assessment Act that exceeds 10,000, may pass bylaws,

"(a) prohibiting or regulating the injuring or destruction of trees or any class of trees specified in the bylaw in any defined area or on any class of land;

"(b) requiring that a permit be obtained for the injuring

or destruction of trees specified in the bylaw and prescribing fees for the permit; and

"(c) prescribing circumstances under which a permit may be issued.

"Conditions

"(2) The council may impose such conditions to a permit as in the opinion of the council are reasonable.

"Delegation

"(3) The council may by bylaw delegate the authority to issue permits to an appointed officer, including the authority to impose conditions to permits.

"Conditions

"(4) A delegation made by a council under subsection (3) may be subject to such conditions as the council may by bylaw provide.

"Appeal to the OMB

"(5) An applicant for a permit under a bylaw passed under subsection (1) may appeal to the Municipal Board,

"(a) if the council refuses to issue a permit, within 30 days after the refusal;

"(b) if the council fails to make a decision on an application, within 45 days after the application is received by the clerk; or

"(c) if the applicant objects to a condition in the permit, within 30 days after the issuance of the permit.

"Order

"(6) The Municipal Board may make any decision that the council that received the application for a permit could have made.

"Appointment of officers

"(7) The council may by bylaw designate one or more persons as officers for the purposes of this section and assign to them the responsibility for the enforcement of the bylaw.

"Inspections

"(8) Subsections 223.1(4) to (8) apply as though an officer were an inspector.

"Order

"(9) If an officer is satisfied that a contravention of a bylaw passed under subsection (1) has occurred, the officer may make an order requiring the person to stop the injuring or destruction of trees and the order shall contain particulars of the contravention.

"Appeal

"(10) A person to whom an order under subsection (9) has been directed may appeal the order to the council of the municipality by filing a notice of appeal with the clerk of the municipality within 30 days after the date of the order.

"Hearing

"(11) As soon as practicable after a notice of appeal is filed, council shall hear the appeal and may confirm, alter or revoke the order.

"Decision final

"(12) The decision of council under subsection (11) is final.

"Non-application

"(13) A bylaw passed under this section does not apply to,

"(a) activities or matters undertaken by the provincial or federal government or their agents or Ontario Hydro;

"(b) activities or matters authorized under the Crown Timber Act; or

"(c) activities or matters prescribed by regulation.

"Conflicts

"(14) If there is a conflict between a bylaw passed under subsection (1) and a bylaw passed under the Trees Act, the provision that is the most restrictive of the injuring or destruction of trees prevails.

"Offence

"(15) A bylaw passed under subsection (1) may provide that any person who contravenes the bylaw or an order under subsection (9) is guilty of an offence and on conviction is liable,

"(a) on a first conviction, to a fine of not more than \$10,000; and

"(b) on any subsequent conviction, to a fine of not more than \$20,000.

"Further order

"(16) If a person is convicted of an offence under a bylaw passed under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence of any person.

"Same

"(17) If a person is convicted of an offence under a bylaw passed under subsection (1), the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to replant or have replanted such trees in such manner and within such period of time as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees or have the trees re-established.

"Obstruction

"(18) No person shall obstruct an officer who is carrying out an inspection under this section.

"Offence

"(19) A person who contravenes subsection (18) is guilty of an offence.

"Agreement respecting enforcement

"(20) The council of a regional, metropolitan or district municipality and the county of Oxford and a county may enter into an agreement with one or more local municipalities for the designation by the council of one or more officers for the administration of bylaws passed under subsection (1) by the local municipality or municipalities and for charging those municipalities the whole or part of the costs of the officers.

"Regulations

"(21) The Lieutenant Governor in Council may make regulations prescribing activities or matters to which

bylaws under this section do not apply.”

Now we go to 186.

I move that the bill be amended by adding the following section:

“57.1 Subsections 50(2) and (3) of the Condominium Act are repealed and the following substituted:

“Application of Planning Act

“(2) Subject to subsection (3), sections 51, 51.1 and 51.2 of the Planning Act apply with necessary modifications to a description under this act, and a description shall not be registered unless approved or exempted by the approval authority.

“Application for exemption

“(3) Before making an application under subsection 51(11) of the Planning Act, the owner of a property or someone authorized by the owner in writing may apply to the approval authority to have the description exempted from sections 51 and 51.1, or from any provision of them, and where, in the opinion of the approval authority the exemption is appropriate, it may grant the exemption.”

Now we go to page 189.

I move that the bill be amended by adding the following section:

“Lakes and Rivers Improvement Act

“62.1 Subsection 3(1) of the Lakes and Rivers Improvement Act is amended by adding the following clause:

“(c) delegating to a conservation authority or other agency or body the power to grant all or part of an approval required under this act.”

The Chair: Is there unanimous consent to deem these motions in order?

Mr Curling: As presented?

The Chair: As read into the record, yes. Okay, there is unanimous consent.

We’ll deal with each one of these items as we get to them in order of sequence.

Mr Hayes: You mean I’ve got to read them again?

The Chair: No. It’s not yet 4 o’clock, so what we’ll do is read the motions the way we normally would do things and when 4 o’clock comes along there won’t be any debate or any amendment, we’ll simply vote on the motions.

Mr McLean: Could I have a clarification from the ministry staff? I’m not so sure, but I think we’re aware that about 60% of the municipalities have official plans. My reading of what we have done so far—and I think the question we have asked is that any municipality that already has an official plan approved—once this 163 is passed, every municipality in the province that has an official plan now, a zoning bylaw, will have to bring it up to date once this is passed. Is that clear?

Mr McKinstry: Yes, there would be an onus on the municipalities with official plans to bring them up to date when they have their five-year review. That’s how the legislation is written. It’s at the time of their five-year review.

Mr McLean: Then for clarification further, any

municipality that hasn’t got an official plan would have to have one within five years?

Mr McKinstry: No, there are a limited number of municipalities that are required to have official plans. They are regions, separated cities, cities in the territorial districts in the north and any prescribed counties. Those are the only ones that would be required to have an official plan.

Mr McLean: So any local municipality wouldn’t have to have one if they didn’t want it.

Mr McKinstry: That’s right.

Mr Curling: A question for the ministry staff: Considering that they have to bring it up to date—I think the question was asked before; I’m not quite sure I’m clear on this—who will pay for this updating?

Mr McLean: The municipality.

Mr McKinstry: The process of preparing and adopting and updating official plans is an ongoing process among all municipalities. Our experience is that we always have many official plans before us for review; many official plans are being updated, so we see this as an ongoing activity. We will be working with municipalities to help them in any way we can to update them.

Mr Curling: You mean we have to pay for it. There’s a cost then.

Mr McKinstry: I can’t make any commitments about any potential moneys that might be given to municipalities, but certainly at the staff level we would plan to work with them to the best of our ability.

1550

Mr Curling: Maybe I can ask the parliamentary assistant to help me on this then. I hear that updating a plan is a continuous process, and of course the ministry staff and all the experts will be assisting those municipalities to bring it up to date. If there is a cost involved, could the parliamentary assistant assure us that this kind of money will not be on the costs of the municipality? Will the government assist them in this process?

Mr Hayes: My understanding is that there is no plan to change the existing structure as far as finances. If we come to situations where a municipality needs the extra funding to do things, I’m sure that—

Mr Curling: That wasn’t my question.

Mr Hayes: Well, no. My answer to your question is that I do not have the authority to make commitments as far as saying pay municipalities to do their official plans.

Mr Curling: Who has the authority there? Who would have the authority to assist a municipality, because the laws the province has brought forward have changed the game, and that game—

Mr Hayes: Well, let’s not—

Mr Curling: I’m not arguing it. I’m just really more—

Mr Hayes: If I may, Mr Chair, I believe, and I guess I could be corrected on this if I’m wrong, but the government of Ontario does assist municipalities now in service and, somewhat, some funding. I don’t see where that is going to change.

Mr Curling: Oh, so you will pay for it then? Thanks.

Mr McLean: Just a quick clarification, Mr Chair: It has been brought to my attention that quite possibly the average update of an official plan would be probably \$80,000, which would be borne by the municipality, which is about a \$10-million downloading from the provincial government on to the local government. Would I be pretty close on that?

Mr Hayes: That's just your opinion.

The Chair: Thank you, Mr McLean. Mr Hayes, let's begin. Page 138: Would you read that into the record. You have five minutes.

Mr Hayes: I move that section 29 of the bill be amended by adding the following section to the Planning Act:

"Delegation to committee or officer

"51.2(1) If a regional, district, county or city council or the council of the county of Oxford is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may by bylaw delegate all or any part of the authority to approve plans of subdivision to a committee of council or to an appointed officer identified in the bylaw by name or position occupied.

"Delegation to local municipality

"(2) If a regional, county or district council or the council of the county of Oxford is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may, after the prescribed notice is given, by bylaw delegate all or any part of the authority to approve plans of subdivision to a constituent local or area municipality in respect of land situate in the local or area municipality.

"Delegation to planning authority

"(3) If a county council or city council is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may, after the prescribed notice is given, by bylaw delegate all or any part of the authority to approve plans of subdivision to a municipal planning authority in respect of land situate in the municipal planning area.

"Further delegation

"(4) If authority is delegated to a council under subsection (2), the council may in turn by bylaw delegate all or any part of the authority to a committee of council or to an appointed officer identified in the bylaw by name or position occupied.

"Same

"(5) If authority is delegated to a municipal planning authority under subsection (3) or subsection 51(10.1), the municipal planning authority may in turn by bylaw delegate all or any part of the authority to a committee of the municipal planning authority or to an appointed officer identified in the bylaw by name or position occupied.

"Conditions

"(6) A delegation of authority made by a council or municipal planning authority under this section may be subject to such conditions as the council or municipal

planning authority by bylaw provides.

"Withdrawal of delegation

"(7) A council or a municipal planning authority may by bylaw withdraw a delegation of authority made by a council or a municipal planning authority under this section and such withdrawal may be either in respect of one or more plans of subdivision specified in the bylaw or any or all plans of subdivision in respect of which a final disposition was not made before the withdrawal."

The Chair: That was 138 in the act?

Mr Hayes: It wasn't in the act; it was pages.

The Chair: What pages in the bill? Does anybody know?

Mr Hayes: Do you want me to explain the bill?

The Chair: Let me just ask you a question.

Mr Hayes: No, this is—

The Chair: It's not in the bill?

Mr Hayes: No, it isn't in the bill now. This is an addition to the bill.

Mr McLean: Can I get a clarification then—you can cut me off if I'm out of order on that—with regard to the parkland? Isn't that in this? Section 51.1, where it talks about the subdivision rules "for commercial and industrial purposes, 2% and in all other cases 5% of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes," are you referring to that? I don't see you referring to that in here. Is that not part of this?

Mr McKinstry: The motion that we put forward has to do with municipal planning authorities and providing them with the ability to approve subdivisions.

Mr McLean: But is it still going to be 2% for parkland?

Mr McKinstry: Yes. The parkland provisions don't change, by virtue of what the parliamentary assistant has just read. They remain.

Mr McLean: Thank you.

The Chair: Seeing that it's 4 o'clock, we'll simply begin voting on these matters, including this motion that has just been read into the record.

All in favour of the motion?

Interjection.

The Chair: Mr Curling, at 4 o'clock on this day, by standing order 46, "those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall, without further amendment or debate, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto," and that's what we're doing.

Mr McLean: Where are Elie and Philip and Mackenzie in opposition when they're needed?

The Chair: Okay, I think we're ready for the vote on this motion. All in favour? Opposed? That carries.

Page 138a, on section 29, as amended: All in favour? Opposed? That carries.

Page 139: All in favour? Opposed? That carries.

Page 139a: All in favour? Opposed? That carries.

Page 139b: All in favour? Opposed? That carries.

Page 140: All in favour? Opposed? That is defeated.

Page 141—

Mr Curling: Mr Chair, could I have a recorded vote for this one?

The Chair: We're not dealing with any amendments or any other point. We're simply—

Mr Curling: A recorded vote—we're not going to deal with that?

The Chair: I'm sorry. Is that what you're asking?

Mr Curling: Yes.

The Chair: We'll leave to the very end matters that require a vote.

Mr Curling: But they're all requiring a vote here. That's what we're doing.

The Chair: We will make a point of the ones that need a recorded vote and we'll get to them at the end. Pat?

Mr Hayes: Yes.

The Chair: Just as a point of reminder, if you want a recorded vote, please ask for it before we introduce it, and we'll defer them to the end and then we'll vote on those at the end.

Page 141—

Mr McLean: Recorded vote.

The Chair: Okay. All in favour? Oh, no, we'll deal with that at the end. Very well.

Page 141a: All in favour of the motion? Opposed? That carries.

Page 142: All in favour?

Mr Curling: Wait a second now. Let me know where we are. Slow down a bit.

The Chair: Page 142: All in favour?

Mr McLean: Recorded vote.

1600

Mr Wiseman: Are you going to ask for a recorded vote on everything?

Mr McLean: I may.

The Chair: Page 143: All in favour of the motion? Opposed? That's defeated.

Page 144: This amendment is identical to the previous Liberal amendment, 143, so we'll move on.

Page 145: All in favour?

Mr McLean: On a point of privilege, Mr Chair: You said 144. We haven't voted on that yet.

The Chair: It is identical, so it's out of order.

Page 145: All in favour of the motion? Opposed? That carries.

Page 146: All in favour? Opposed?

Mr Curling: On a point of order, Mr Chair: Can we just get right on in that dictatorial way? Just say, "Let's move all of them and pass them," because you're going to wear it out.

The Chair: Thank you, Mr Curling.

Page 147: All in favour? Opposed? That carries.

Page 148: All in favour? Opposed? That carries.

Page 149: All in favour? Opposed? That is defeated.

Page 150: The amendment is identical to the previous Liberal amendment so it's out of order.

Page 151: All in favour? Opposed? That carries.

Page 152: All in favour? Opposed? That carries.

Page 153: All in favour? Opposed? That carries.

Page 154: All in favour?

Mr McLean: A recorded vote on that one, Mr Chair.

The Chair: Page 155: All in favour? Opposed? That carries.

Page 156: All in favour? Opposed? That carries.

This is page 157. All in favour? Opposed? That carries.

Mr Curling: Could I have a recorded vote on that?

Clerk of the Committee: It's a recorded vote, so we'll leave it till later.

The Chair: Page 157(i): All in favour? Opposed? That carries.

Page 157(ii)—

Mr McLean: A recorded vote.

The Chair: Page 157(iii): All in favour? Opposed? That carries.

Page 157(iv): All in favour? Opposed? Carries.

Page 157b—

Mr McLean: A recorded vote on that one.

The Chair: A recorded vote, okay.

Page 157c: All in favour of the motion?

Mr McLean: A recorded vote.

The Chair: Page 157d—

Interjection.

The Chair: Okay, there's no change to that section. Shall section 33 of the bill carry? All in favour? Opposed? That carries.

Mr Gilles Bisson (Cochrane South): How can you carry something you haven't voted on?

The Chair: There's no change. There's no motion to that.

Clerk of the Committee: Just to clarify, we're on section 33. The recorded votes were requested to sections prior to section 33.

The Chair: The previous one.

Mr McLean: Could I have a clarification on that, Mr Chair? On this 157d, it tells me that the government recommends voting against section 33 of the bill. You just—

Mr Curling: They all voted for it.

Mr McLean: —had a motion and they all voted for it.

Mr Hayes: No.

The Chair: On 157d?

Mr Hayes: As amended.

Mr McLean: You voted in favour of it.

Mr Curling: "The government recommends voting against section 33 of the bill," and you all voted for it.

Mr Hayes: No, we voted that down and we voted for that section.

Mr McLean: You voted for section 33?

Mr Hayes: As amended, yes.

Mr McLean: But you recommended that you vote against it.

Interjections.

Mr Hayes: Yes, you're right, we did, because you guys didn't like it.

Mr Curling: "Section 33 of the bill: The government recommends voting against it." Are you the government or not? Are you the government?

Interjections.

The Chair: Okay, page 158.

Mr Curling: What about 157d? You're jumping to 158 now?

The Chair: Donna, do you want to chat about that?

Clerk of the Committee: The Chair asked, "Shall section 33 carry?" and it carried by a majority of the committee.

Mr McLean: I was asking the parliamentary assistant for clarification. It carried and it recommends the government vote against it. So what does that say, that the government voted against what the recommendation was?

Mr Hayes: It just shows that we listen and we can change.

Interjection: We have a problem with that.

Mr Hayes: Yes, you have a problem with it.

Mr Curling: I just need an explanation from the Chair. It says here, "The government recommends voting against section 33." We just went through section 33 a while ago and you voted for it, and then this bill says the government recommends now that you vote against it, and you did not.

Interjections.

The Chair: I'm not sure we can discuss the matter. That's quite a problem.

Mr Hayes: I'm not going to discuss the bill; I'm going to try to discuss what happened.

The Chair: I know. I'm not sure we can do that either. We can't. It's been read.

Okay, page 158: All in favour of the motion?

Mr Hayes: Which one?

The Chair: Page 158; it's a government motion. All in favour? Opposed? That carries.

Shall section 34 carry, as amended? That carries.

Page 159; it's a government motion: All in favour? Opposed? That carries.

Shall section 35 carry, as amended? It carries.

Page 160, government motion: All in favour? Opposed? That carries.

Shall section 36 carry, as amended? That carries.

Page 161; it's a government motion.

Mr McLean: A recorded vote on that.

The Chair: Page 162, government motion: All in favour? Opposed? That carries.

1610

Page 163, a PC motion: All in favour?

Mr McLean: Recorded vote.

The Chair: It's out of order.

Mr Chris Stockwell (Etobicoke West): Why is it out of order?

The Chair: We dealt with page 162, which is very much similar to the motion that you put on 163, so that would be out of order.

Mr Stockwell: What do you mean "similar"?

Mr Hayes: It's improved.

The Chair: Just as a quick word, it's repetitive; therefore, I'm going to rule that out of order.

Page 164, government motion: All in favour? Opposed?

Mr Stockwell: Page 164? We've got a problem with it.

The Chair: Mr Stockwell, just as a reminder, there's no debate on these things. We just vote on them.

Interjection: We already voted on 164.

The Chair: We voted on 163. Just going back to that, all in favour of—

Mr McLean: A recorded vote.

Interjection.

The Chair: I want those other members, those of you, to settle down. We're going to go through this, okay?

Shall section 38 carry?

Mr Stockwell: Hold it. Where are you?

Mr Curling: Why don't—

The Chair: Opposed?

Mr Stockwell: Where are you?

The Chair: Shall section 39 carry? Opposed? Okay. Shall section 40 carry? Carried.

Page 164, government motion: All in favour? Opposed? That carries.

Mr McLean: I asked for a recorded vote on that some time ago.

Mr Hayes: He did.

The Chair: Did you? Do we have a note of that? All right. Mr McLean asked for a recorded vote on that, page 164.

Page 165; it's a Liberal motion.

Mr Curling: I want a recorded vote on this one.

The Chair: Page 165 has been deferred to later for a recorded vote; 166 is a similar motion, identical to the previous one, so I will be ruling that out of order when we get to it.

Mr Stockwell: Regardless of what happens with 165?

The Chair: We're going to have to deal with the other, one way or the other. If it's defeated or passed, 166 will have the similar fate.

Page 167: All in favour?

Mr Stockwell: Recorded vote.

The Chair: We're on to section 43 now. Shall section 43 carry?

Mr Stockwell: No, recorded vote.

The Chair: Page 169.

Mr Stockwell: Recorded vote.

Mr McLean: Mr Chair, could I have a clarification? Page 169, we haven't dealt with that yet. You said section 43 was carried. How can you carry section 43 when you haven't done—

The Chair: Section 43.1 is a new section.

Mr McLean: You said, "Shall section 43 carry?"

Clerk of the Committee: Section 43.1 is a new section and it comes after section 43.

Mr Curling: But one second though, the last carried section you did was 39, I think. What else did you do? Did we carry 40? No, I didn't hear that.

Clerk of the Committee: Recorded votes were requested on those sections; therefore, in accordance with the time allocation motion, all those questions will be deferred until the very end and then we'll go through them one by one.

Mr Curling: So, if there's a recorded vote that is called on a section, you can't call the section carried then?

Clerk of the Committee: No, because you haven't voted on the amendment yet.

The Chair: Okay, moving on—

Mr Curling: Could I ask a—

Mr Bisson: We're in the middle of a vote.

Mr Stockwell: This isn't—

Mr Curling: Listen—

Mr Stockwell: Let's get it straight.

Interjections.

The Chair: Mr Curling, go ahead.

Mr Curling: Try and put me straight because I really need to be put straight on this. In some of those sections that we moved, we asked for recorded votes, and then you moved for those sections to be passed. Now you're telling me that if any recorded vote is requested, you can't move for those sections to be passed. First I'm going to ask you: If we ask for a recorded vote, can we move that section to be passed?

The Chair: All right. Where you have asked for a recorded vote, we have deferred that item, so we don't ask for sections—

Mr Curling: But we did so in some of those sections.

The Chair: I am not aware that we have done that on a matter where you've asked for a recorded vote.

Mr Curling: Okay. All right.

The Chair: We're on section 44.

Mr McLean: Can I have a clarification on section 37? Was it carried?

The Chair: No, you have a recorded vote on that.

Mr McLean: That's right. Okay.

The Chair: We're on section 44. All in favour of section 44?

Mr Stockwell: Recorded vote.

The Chair: Section 45: All in favour?

Mr Stockwell: Recorded vote.

The Chair: Mr Stockwell, can I precede you? Is it your intention to have a recorded vote on all of these, in which case we can just do that?

Mr Stockwell: I'm not sure. It's dangerous to precede me.

The Chair: Page 171: All in favour?

Mr Stockwell: Recorded vote.

The Chair: Page 172.

Mr Stockwell: Recorded vote.

The Chair: Page 173.

Mr Stockwell: Recorded vote.

The Chair: We're on section 48. All in favour of section 48?

Mr Stockwell: Recorded vote.

Mr Curling: This is what I am saying. I just want to—there's no 48 to move. Okay.

The Chair: We're on section 49 now.

Mr Stockwell: Recorded vote.

Interjection: What page are you on?

The Chair: Page 174.

Mr Bisson: Recorded vote.

The Chair: Page 175.

Mr Bisson: Recorded vote.

The Chair: Page 176.

Mr Bisson: Recorded vote.

The Chair: Page 177.

Mr Bisson: Recorded vote.

The Chair: Page 178.

Mr Bisson: Recorded vote.

The Chair: Okay, 178: This is out of order. It's outside the scope of the bill, and 179 is identical to the previous one, so that too is out of order. Page 180.

Mr Stockwell: Recorded vote.

Mr Curling: May I ask a question here, though? This is a new one that's been put in. There's no debate on this. You just slide this in earlier on and no debate.

The Chair: There's no debate. Page 181.

Mr Stockwell: Recorded vote.

The Chair: Page 182: out of order. Page 184.

Mr Bisson: Recorded vote.

The Chair: Page 185.

Mr Bisson: Recorded vote.

Interjection: Gilles, let them do their silly stuff. You don't have to.

Mr Stockwell: Unparliamentary language.

The Chair: We're on section 54 now.

Mr Stockwell: Was that a recorded vote on 185, Mr Chair?

The Chair: Yes. We're on section 54. All in favour?

Mr Stockwell: Recorded vote.

The Chair: Section 55.

Mr Stockwell: Recorded vote.

The Chair: Section 56.

Mr Stockwell: Recorded vote.

The Chair: Section 57.

Mr Stockwell: Recorded vote. You're not going to use the replacement government motion?

Interjections.

Ms Christel Haeck (St Catharines-Brock): Mr Chair, may I make a motion that we have recorded votes on all of them so that we can abbreviate this whole process, so we can just do them right now?

The Chair: I'm not sure we can do that. It's out of order.

Mr Stockwell: You need unanimous consent.

The Chair: We just have to go through this.

Mr Stockwell: Go ahead and seek unanimous consent. It's out of order.

The Chair: Page 186. Is there unanimous consent for that, by the way?

Mr Stockwell: No.

The Chair: Page 186.

Mr Stockwell: Recorded vote.

The Chair: We're on section 58 now.

Mr Stockwell: Recorded vote. If I'm out of turn, just let me know.

The Chair: For sure. Page 187.

Mr Stockwell: Recorded vote.

The Chair: On section 60 now.

Mr Stockwell: Recorded vote.

1620

The Chair: Page 188.

Mr Stockwell: Recorded vote.

The Chair: Page 188a.

Interjections.

The Chair: We're on section 62. Shall section 62 carry?

Mr Stockwell: Recorded vote.

Mr Hayes: Too late.

Mr Curling: Point of order, Mr Chairman: Can you pass a motion to pass a page or is it on the section you're doing? You're saying: "Page 188 passed."

Mr Bisson: How long have you been here, Alvin?

Mr Curling: Are you the Chair?

The Chair: Mr Curling, please. I'm willing to entertain what you have you say. It's probably out of order, but go ahead.

Mr Curling: You mean before I speak it's probably out of order?

Mr Bisson: Yes, that's right.

Mr Curling: Mr Chair, please—

The Chair: Mr Bisson.

Mr Curling: I know you put in 188. Is it in order to just say "188," or is it—

Clerk of the Committee: Yes. It's just an easy way of identifying it.

Mr Curling: It can be done, okay. That's all I'm asking.

The Chair: Page 189.

Mr Stockwell: Pardon me. So you're going to call the page numbers, not the sections?

The Chair: That's right.

Mr Stockwell: It would be easier to call the sections.

The Chair: I'm going to call the page number. Follow the page number, please.

Mr Stockwell: Is that in order, to go clause by clause and call page numbers?

The Chair: I'm going to go page by page.

Mr Stockwell: I ask the clerk, is that in order? We're going clause by clause and we don't call sections, we call page numbers?

The Chair: I was ruling that it's all right for us to just simply name the page.

Clerk of the Committee: Unless you're requesting otherwise, it is in order for the Chair to read out the page number.

Mr Stockwell: Yes, I'm requesting otherwise.

Clerk of the Committee: Fine.

The Chair: Shall section 62.1 of the bill carry?

Mr Stockwell: Recorded vote.

Mr Hayes: We already voted. You're too late on that one.

Mr Stockwell: It's called a subsection as well, Mr Chair.

The Chair: Shall section 63 carry? That carries.

Shall section 64 carry?

Mr Stockwell: No, a recorded vote.

The Chair: Shall section 65 carry? Carried.

Shall section 66 carry?

Interjections: Carried.

Mr Stockwell: Recorded vote.

Mr Hayes: Too late.

The Chair: Section 67 of the bill: We're on page 189 and this is an amendment which would amend clause 37(e) of the Ontario Municipal Board Act. Shall that carry? Carried.

We're on section 67, as amended. Shall that carry? Carried.

We're on section 68. Shall that carry?

Mr Stockwell: Recorded vote.

Mr Hayes: He wasn't in his seat.

The Chair: That doesn't matter.

Page 190, an amendment to subsection 69(1) of the bill, clause 77(1)(e) of the Ontario Municipal Board Act: Shall that carry?

Mr Stockwell: Recorded vote.

The Chair: We're on section 70 now. Shall section 70 carry?

Mr Stockwell: Recorded vote.

The Chair: Shall sections 71 to 84 carry?

Mr Stockwell: Can you call them individually, Mr Chair, please? This is clause-by-clause actually.

The Chair: On section 71, shall it carry?

Mr Stockwell: Recorded vote.

The Chair: Section 72.

Mr Stockwell: Recorded vote.

The Chair: Section 73.

Mr Stockwell: Recorded vote.

The Chair: Section 74.

Mr Stockwell: Recorded vote.

The Chair: Section 75.

Mr McLean: Recorded vote.

Mr Hayes: Oh, there's another member over there.

The Chair: Section 76.

Mr Stockwell: Recorded vote.

The Chair: Section 77.

Mr Stockwell: Recorded vote.

The Chair: Section 78.

Mr Stockwell: Recorded vote.

The Chair: Section 79.

Mr Stockwell: Recorded vote.

The Chair: Section 80.

Mr Stockwell: Recorded vote.

The Chair: Section 81.

Mr Stockwell: Recorded vote.

The Chair: Section 82.

Mr Stockwell: Recorded vote.

The Chair: Section 83.

Mr Stockwell: Recorded vote.

The Chair: Section 84.

Mr Hayes: Give Al a turn.

Mr Stockwell: Recorded vote.

Mr Bisson: Are you going to be here for all those votes, Chris?

Mr Stockwell: Maybe, but I know you will be.

The Chair: We're on the amendment, page 192, to subsection 85(1) of the bill.

Mr Stockwell: Recorded vote.

The Chair: Section 86.

Mr Stockwell: Recorded vote.

The Chair: Section 87.

Mr Stockwell: Recorded vote.

The Chair: Section 88.

Mr Stockwell: Recorded vote.

The Chair: Page 193.

Mr Stockwell: What's 193?

The Chair: Schedule A to the bill, subsection 1(1) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Page 194, schedule A to the bill, subsection 1(1) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Page 195, schedule A to the bill, subsection 1(2) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Section 2.

Mr Stockwell: Recorded vote.

The Chair: Section 3.

Mr Stockwell: Recorded vote.

The Chair: Page 196, schedule A to the bill, subsection 4(3) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Page 197, schedule A to the bill, clause 4(4)(c) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Section 5: All in favour?

Mr Stockwell: Recorded vote.

The Chair: Page 197a, schedule A to the bill, subsection 6(4) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Section 7: All in favour of section 7?

Interjections: Agreed.

The Chair: Section 8: All in favour of section 8?

Mr Stockwell: Recorded vote.

The Chair: Section 9.

Interjections: Agreed.

The Chair: All in favour of section 10?

Interjections: Agreed.

Mr Stockwell: Recorded vote.

Mr Hayes: Too late.

The Chair: It's too late. All in favour of section 11?

Interjections: Agreed.

Mr Stockwell: Recorded vote.

The Chair: All in favour of section 12?

Interjections: Agreed.

Mr Stockwell: Recorded vote.

The Chair: All in favour of section 13?

Interjections: Agreed.

Mr Stockwell: Recorded vote.

The Chair: All in favour of section 14?

Interjections: Agreed.

Mr Stockwell: Recorded vote.

The Chair: Just as a point, Mr Stockwell, when I call, "All in favour?" and they all agree and you then say "Recorded vote," that's a problem. If you want a recorded vote, say it in advance.

Mr Stockwell: In advance? Can you go a little slower then so you give me some time to say it?

The Chair: I'm going to go at the pace that I have.

Mr Stockwell: Oh, I see, so you're not going to go any slower.

The Chair: That's right.

Mr Curling: Which section are you going to next now?

The Chair: We are on page 198 now.

Mr Curling: I think a recorded vote for that one. Will you just tell us where you are first before you call the vote?

The Chair: Okay. A recorded vote on that.
Section 16.

Mr Stockwell: Recorded vote. Is that soon enough?

Interjection: Yes.

Mr Stockwell: Good.

The Chair: Page 198a, schedule A to the bill, section 16.1 of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: Section 17: All in—

Mr Stockwell: Recorded vote. Sorry, I was a little slow.

The Chair: Page 199.

Mr Hayes: Agreed.

Mr Stockwell: Hold it.

Mr Hayes: Carried.

The Chair: Schedule A to the bill, clause 18(2)(b) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

Mr Hayes: Agreed.

Mr Stockwell: Recorded vote.

The Chair: Page 200, schedule A to the bill, section 19 of the Ontario Planning and Development Act. All in favour?

Mr Hayes: Agreed.

Mr Stockwell: Recorded vote.

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The Chair: Section 20.

Mr Stockwell: Recorded vote.

The Chair: Page 200a, schedule A to the bill, subsection 21(3) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

Mr Hayes: Passed.

The Chair: Page 200b, schedule A to the bill, subsection 21(4) of the Ontario Planning and Development Act.

Mr Stockwell: Recorded vote.

The Chair: We're on section 22 now.

Mr Stockwell: Recorded vote. If you had done this right in the first place, we wouldn't be doing this like this.

The Chair: We're on section 1 of schedule B.

Mr Stockwell: Recorded vote.

The Chair: Page 201, schedule B to the bill, subsection 2(1) of the Local Government Disclosure of Interest Act. All in favour of the bill?

Interjections: Agreed.

The Chair: Page 202, schedule B to the bill, subsection 2(1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Pardon me, Mr Chair, you're at 202,

did you say? I have a 201a. I think they mismarked it 210a, but it's 201a, I believe.

The Chair: I don't have a 201a; I have a 201.

Mr Stockwell: I have a 201.

The Chair: And that we passed.

Mr Stockwell: Or is it 210a? I'm sorry.

Mr Hayes: No, we defeated it.

Mr Stockwell: Okay, I'll keep that in mind.

Mr Hayes: Did you pass it?

Mr Bisson: Yes, we passed it.

Mr Stockwell: I know a Liberal motion just passed, but I'll keep going.

Mr Curling: Because you were ramming the things down, obviously there will be no recorded vote.

Mr Stockwell: We didn't get a recorded vote on 201, so it carries, I know. Let's move on; let's get going. It's passed. Let's move on.

Mr Bisson: What does that say? It says "Liberal."

Mr Stockwell: There are seven or eight or 10 of you over there. Surely you can match one of us over here.

Mr Wiseman: Page 201 didn't carry.

Mr Bisson: Point of order, Mr Chair, on the vote.

The Chair: Madam Clerk.

Mr Bisson: Point of order, Mr Chair, on the vote.

The Chair: Page 201, schedule B.

Interjections.

The Chair: All right. Mr Stockwell, calm down, please.

Mr Bisson: Point of order, Mr Chair, on the vote: You called for schedule B to the bill, subsection 2(1). I voted opposed to this motion. So did my colleagues. I would like to know what the ruling of the Chair is.

Mr Stockwell: Could I speak to that point of order, Mr Chair?

The Chair: He said he opposed it; she said she opposed it.

Interjection: There are five members who voted against it.

The Chair: You can't speak to it.

Mr Stockwell: Can I ask a question? I know they get a chance to debate, but—

The Chair: Mr Bisson, hold on, please.

Mr Wiseman: He asked for a recorded vote.

The Chair: You made the point. I'm asking the clerk whether she saw whether people were voting in favour or not of this motion. What the clerk is saying is that she—

Interjection: She said, "Opposed."

Mr Hayes: Let him finish.

Mr Stockwell: Mr Chair, I'd like to comment on it.

The Chair: Hold on.

Clerk of the Committee: The chair asked, "Shall it carry?" and I heard, "Carried."

Mr Stockwell: Yes, that's what I heard too.

The Chair: If that's what we heard, then that's what we heard.

Mr Stockwell: So let's move on.

Mr Curling: Let's move on.

Mr Stockwell: Good ruling.

Mr Bisson: I would like to clarify for the record that myself, and I know at least one other of my colleagues, voted opposed to this particular motion. The parliamentary assistant voted in favour. That's what you heard in favour; you didn't hear the opposed.

Mr Hayes: That's what happened. I wasn't—

Mr Stockwell: For the record—

Interjections.

Mr Bisson: Mr Chair, I last counted that there were five members on the opposition side benches, a total of four with the parliamentary assistant with the opposition—

The Chair: Is there unanimous consent to vote on that motion again? No.

Interjections.

Mr Stockwell: I know that it's a point of order and we all get an opportunity—quickly, Mr Chair, what I heard very clearly was you calling the motion, I heard yeas and a couple of nays, just a couple, and I heard you yell very clearly, "Carried," and I moved on. I did not call for a recorded vote on that.

The Chair: Thank you, Mr Stockwell. We're now on page 202.

Mr Curling: So page 201 is carried.

Mr Bisson: The Liberal motion has been carried.

The Chair: Page 202.

Mr Wiseman: Carried.

Interjection: That's the first one of the day.

The Chair: Does that motion carry?

Interjections: Carried.

The Chair: Okay, that carries.

Page 203.

Mr Curling: Wait a minute again. Mr Chair, you got into trouble the same way by ramming it. We want you to call the section, because you're going back to 202 again and then when you get it carried your colleagues are saying one thing or the other. Let's go slower.

The Chair: Page 203, schedule B, to the balance of subsection 2(2.1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 204, schedule B to the bill.

Clerk of the Committee: You're skipping one.

The Chair: Did I miss one? We're on section 3, okay. All in favour of section 3? We're on section 3 of schedule B. All in favour? Opposed? That carries.

Mr Curling: What page are you on?

The Chair: We're on page 204. It's government motion, schedule B to the bill, subsection 4(1) of the Local Government Disclosure of Interest Act. All in favour?

Mr Stockwell: Recorded vote.

The Chair: Page 205: It's a Liberal motion, schedule

B to the bill, subsection 4(1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 206, government motion, schedule B to the bill, clause 4(1)(d) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 207, PC motion, schedule B to the bill, clause 4(1)(d) of the Local Government Disclosure of Interest Act: All in favour?

Mr Stockwell: Mr Chair, is that in order? Is this motion in order? I just want to get it clarified.

The Chair: It is slightly different. It's in order, yes.

Mr Stockwell: Recorded vote.

Mr Bisson: It was defeated, Mr Chair.

Mr Hayes: It was already voted on.

The Chair: Which one?

Interjections.

The Chair: No, I'm sorry. Page 206, they wanted a recorded vote. Now we're on 207. It's a different motion—

Mr Stockwell: Recorded vote.

The Chair: —and they've asked for a recorded vote.

Mr Bisson: We've already voted on it. This will be the second time.

Mr Stockwell: Only because I want to know if it's in order. Sorry.

The Chair: He asked for a recorded vote on that.

Mr Stockwell: I appreciate your protection, Mr Chair.

The Chair: Page 208, Liberal motion, schedule B, subsection 4(1.1) of the Local Government Disclosure of Interest Act.

Mr Bisson: Did he say "Recorded vote" again?

The Chair: Yes, he did, it's a recorded vote.

Page 209, government motion, schedule B to the bill, subsection 4(2) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 210, Liberal motion, schedule B to the bill, subsection 4(2) of the Local Government Disclosure of Interest Act.

Mr Curling: Recorded vote.

The Chair: All in favour? Opposed? I'm sorry, Mr Curling, did I hear you asking for a recorded vote?

Mr Curling: Yes. I said, "Recorded vote."

The Chair: Page 210a, PC motion, schedule B to the bill, subsection 5(1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 211.

Interjection: Recorded vote.

Mr Stockwell: What are we voting on?

The Chair: Liberal motion, schedule B, subsection 5(1) of the Local Government Disclosure of Interest Act. It's a recorded vote.

Page 212, Liberal motion, schedule B, subsection 5(3).

Mr Stockwell: Of what?

The Chair: Of the Local Government Disclosure of Interest Act.

Mr Curling: Recorded vote on that one.

The Chair: It's a recorded vote. Section 5—oh, it's a recorded vote on that, all right.

Page 213, government motion, schedule B to the bill, subsection 6(4) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

Mr Curling: I'll need a recorded vote on the one coming up next.

The Chair: Okay. This motion, 214, Liberal motion, schedule B to the bill, is similar to the previous one, so I'll rule that out of order.

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Mr Stockwell: Hold it. You're ruling 214 out of order because of 213?

The Chair: Mr Stockwell, you raised the same question earlier on, on the same point. Page 213 is similar to 214; 214 follows and that would be out of order, when we deal with that. We're dealing with that now.

Mr Curling: Couldn't we put the amendments in first and allow these amendments—

The Chair: Page 215, government motion.

Mr Curling: Mr Chairman, one second. I just want a clarification. If these both are the same subsection 6(4), 213 and 214, wouldn't the Liberal amendment come in first and when that is defeated then the government one would come in?

Mr Stockwell: Yes, amendments always go before motions.

The Chair: What we have on 213 is a very similar motion that follows on 214, which is yours.

Mr Curling: You are defeating my stuff here, but you're approving yours before defeating it.

Mr Stockwell: Yes, he has to move the amendment first, Mr Chair.

The Chair: All right. We'll defer that as well along with page 213.

Page 215, government motion, schedule B to the bill, subsection 7(2) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 216, Liberal motion, schedule B of the bill, subsection 7(4) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 217, Liberal motion, schedule B to the bill, subsections 7(5) and (6) of the Local Government Disclosure of Interest Act. All in favour?

Mr Curling: A recorded vote on that.

The Chair: It's opposed, but there's a recorded vote.

Page 218, schedule B to the bill, subsection 8(2.1) of

the Local Government Disclosure of Interest Act. Mr Curling asked for a recorded vote.

On 218a, PC motion, schedule B to the bill, clause 8(8)(a) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 219 is a Liberal motion, schedule B to the bill, clause 8(8)(b)—

Interjection.

Mr Bisson: You're supposed to give him a chance to read—

The Chair: Yes, Mr Curling, can I ask you—Mr Bisson. Mr Curling, I'm not reading fast. Just wait until I'm done and then ask for a recorded vote.

Mr Curling: Mr Chair, whenever they say "Carried," you say that's too late. You're playing games on us now.

The Chair: Mr Curling, just relax please. Schedule B to the bill, clause 8(8)(b) of the Local Government Disclosure of Interest Act.

Mr Curling: I think that we would ask for a recorded vote.

The Chair: Page 220, Liberal motions.

Mr Bisson: Hold it. On 219 you haven't called for the vote.

The Chair: I think Mr Curling asked for a recorded vote.

Page 220, Liberal motion, schedule B of the bill, subsections 8(10), (11) and (12) of the Local Government Disclosure of Interest Act. All in favour?

Mr Curling: I want a recorded vote on that one.

Mr Bisson: That's the way we do it; there we go.

The Chair: Page 221, Liberal motion, schedule B of the bill, subsection 8(14) of the Local Government Disclosure of Interest Act.

Mr Curling: Recorded vote on that one too.

The Chair: Page 222, Liberal motion, schedule B of the bill, subsection 9(1.1) of the Local Government Disclosure of Interest Act.

Mr Curling: I would like a recorded vote on this one.

The Chair: Page 222a, PC motion, schedule B to the bill, subsection 9(1.1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

Interjection.

Mr Stockwell: Thank you. I'm working on it.

The Chair: Page 223, Liberal motion, schedule B of the bill, subsection 9(2) of the Local Government Disclosure of Interest Act.

Mr Curling: A recorded vote on that one.

The Chair: Page 223a, PC motion, schedule B to the bill, subsection 10(1) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Section 11: All in favour of section 11?

Mr Stockwell: Recorded vote.

The Chair: Section 12?

Mr Stockwell: Recorded vote.

The Chair: Section 13?

Mr Stockwell: Recorded vote.

The Chair: Section 14?

Mr Stockwell: Recorded vote.

The Chair: Page 224, a Liberal motion.

Mr Curling: Recorded vote.

The Chair: Schedule B of the bill, subsections 15(3) and (4) of the Local Government Disclosure of Interest Act.

Mr Curling: Recorded vote.

The Chair: We'll defer motion 225 along with 224.

Mr Stockwell: Excuse me, Mr Chair. I missed that. We're deferring 225 and what?

The Chair: Along with 224.

Mr Stockwell: We just called for a recorded vote on 224.

Mr Curling: Why are we deferring it?

The Chair: They're identical.

Mr Stockwell: Sorry, I don't mean to slow you down, but we called for a recorded vote just a second ago on 224. Are we then to assume you're deferring 225 and we can move it, or are you ruling it out of order?

The Chair: Deferring it is what we're doing. We're deferring that as well.

Mr Stockwell: What's that, sir? We're deferring 224 and 225?

The Chair: We're going to have a recorded vote on 224. Page 225 is similar. When we get to vote on the other matter, then we'll deal with page 225. When 224 fails or succeeds, 225 will be out of order.

Mr Stockwell: Oh, I see. So you're saying it's going to be out of order regardless.

The Chair: Regardless.

Page 226, a government motion, schedule B to the bill, subsections 15(5) of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: On section 16.

Mr Stockwell: Recorded vote.

The Chair: Page 226a, schedule B to the bill, section 17 of the Local Government Disclosure of Interest Act.

Mr Stockwell: Recorded vote.

The Chair: Page 227, a Liberal motion, schedule B of the bill, subsection 18(1) of the Local Government Disclosure of Interest Act.

Mr Curling: I'll have a recorded vote there.

The Chair: Page 228, a Liberal motion, schedule B of the bill, subsection 18(1.1) of the Local Government Disclosure of Interest Act.

Mr Curling: Recorded vote.

The Chair: Page 229, a Liberal motion, schedule B of the bill, section 19 of the Local Government Disclosure of Interest Act.

Mr Curling: I request a recorded vote.

The Chair: We're on section 20.

Mr Stockwell: Recorded vote.

The Chair: On section 21.

Mr Stockwell: Recorded vote.

The Chair: Page 230, a government motion, schedule B to the bill, clause 22(e) of the Local Government Disclosure of Interest Act.

Mr Stockwell: This is on section 22?

The Chair: Section 22, that's right.

Mr Stockwell: Is that at the end, the short title?

The Chair: Whatever I read to you, Mr Stockwell.

Clerk of the Committee: No, it's not.

Mr Stockwell: No? Recorded vote then.

The Chair: On section 23: All in favour of section 23?

Interjections: Agreed.

The Chair: On section 24.

Mr Stockwell: Recorded vote.

The Chair: Okay.

Now we're going to go through all the sections that were previously stood down.

Mr Stockwell: Mr Chair, is it in order to take a 20-minute recess at this time?

The Chair: We're going to go through it and then you can ask for a 20-minute recess.

Mr Stockwell: So we have to go through all the votes?

Mr Curling: That's the ruling by the clerk?

The Chair: Yes. We're going through all the sections previously stood down.

We're on section 1 of the bill. All in favour?

Interjections: Agreed.

1650

Mr Curling: One second. I have page 18 here. Is that where we are, the section 1 you're talking about? The schedules have been stood down. We were going in sequence, and all of a sudden there were some behind, that schedule's stood down and 18 is the next one.

Clerk of the Committee: We're on page 2 of the bill. Now that we've gone through the entire bill, we're going to those sections which we stood down during regular clause-by-clause.

The Chair: I explained that. What he wanted to know was the page number of section 1.

Mr Curling: What I saw is in the package you gave me. The next sequence after 230, I saw 18.

The Chair: This is why I said we're going to go through all the sections previously stood down. That's what I said. We're on section 1. We passed that. We're now moving on. We're now moving on to section 2 of the bill.

Mr Stockwell: Mr Chair, I have a question. It says in our notice of closure from the government that we are allowed to call for, pursuant to the act, a 20-minute recess. I'm looking for clarification from you. It says it right in the closure motion.

The Chair: I said we will have a recess at the very end, once we've dealt with all the amendments.

Mr Stockwell: But I'm saying to you that I want to call my 20-minute recess now.

The Chair: And I'm ruling that we'll have that 20 minutes as soon as we've done this.

Mr Stockwell: But I'm perfectly within my rights and it's in order to call for it.

The Chair: The clerk is passing me something to read to you: "Any divisions required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 128(a)." It's "until all remaining questions have been put," so we're putting all these—

Mr Stockwell: Right, with one 20-minute waiting period between that.

The Chair: We're putting all the questions on all the motions. After that, we'll have a 20-minute recess.

We're on section 2 of the bill.

Ms Haeck: I have a question. I've raised my hand twice now. I would like to know what is happening with section 1.

The Chair: We passed it.

Ms Haeck: Thank you. I was just curious. I didn't hear anything.

The Chair: We're on section 2 of the bill. All in favour?

Interjections: Agreed.

The Chair: It carries.

Mr Stockwell: Mr Chair, I don't want to be splitting hairs, but when you call for a vote, you're supposed to say, "All those in favour?" and you're supposed to say, "All those opposed?"

The Chair: Thank you, Mr Stockwell. That's what I've done. Moving on—

Mr Stockwell: No, you just said, "All those in favour?"

The Chair: You're out of order now, Mr Stockwell.

Mr Stockwell: Can you call "Opposed?" Thank you.

Mr Curling: Mr Chair, I really want to follow the procedure here. As I said, the package that was given to me—

Mr Eddy: I can share mine with him.

The Chair: Mr Curling, we're going to move through this. Do you have a question about where we are?

Mr Curling: No, I have—

The Chair: That's all we're going to be dealing with. We're just going to—

Mr Curling: Mr Chairman, if you'll listen to what I want—

The Chair: No, Mr Curling, this is the motion. We've got to go through these one by one and we vote on them. That's what we do here, okay? If you want to know what page we're on, I'll tell you. If not, we're just going to move on.

Mr Curling: What is my question, Mr Chair?

The Chair: Mr Curling, let me repeat this.

Mr Curling: No. I'm asking one more question to the Chair.

The Chair: No. I tell you, as the Chair, that we're going to be dealing with the motions and we vote on them, yea or nay, and that's all we're supposed to be doing.

Mr Curling: No, no. You see, Mr Chairman—

The Chair: You're out of order, Mr Curling. We're on page 18.

Mr Curling: On a point of order: How can I be out of order when I'm making a point? The point I'm trying to make to you is that there is a package in front of me, and I'm trying to follow the procedures. You gave me this package here, and you reached page 230 and then said we're going to go back. In the back of this thing I have what was stood down. The next one that was stood down, it says, was page 18, 19, and it goes through like that. You say here, "On section 1," and I'm trying to find out what part of section 1 I am.

Clerk of the Committee: Those numbers you have at the end of your package are amendments, and those amendments start at section 7. Section 1 and section 2 of the bill were stood down. There were no amendments to those sections, however, so that's why you don't have anything.

Mr Curling: That's all. I was just trying to find out where he was.

Mr McLean: Can I have a clarification from the Chair? The House has adjourned, and the House leader asked for consent to let the committee sit until 6 o'clock. Can we go on until 7 or 8?

The Chair: Let me read what this says: "That the committee be authorized to continue to meet beyond its normal adjournment if necessary until consideration of clause-by-clause has been completed."

Mr McLean: So we can go until 7 or 8 if necessary.

The Chair: We're on page 18 now, a Liberal motion, section 7 of the bill, subsection 4(6) of the Planning Act.

Mr Curling: We need a recorded vote on that.

The Chair: Mr Curling's asked for a recorded vote. Page 19.

Ms Haeck: Mr Chair, we've already dealt with this in some sequence earlier. Could we not have the recorded vote now, if I may be so bold to suggest, since numerically, 18 precedes the package we have just dealt with. Motion 18 definitely comes well in advance of the 130s, the 160s, where we've had recorded votes in, what shall I say, an hour ago.

The Chair: The point is that when there's a recorded vote being asked for, whatever sequence it is, we're simply deferring them.

Ms Haeck: I'm prepared to have the recorded vote. I suggest we have it now, since we've actually already dealt with the postponement earlier. This has already been dealt with probably three weeks ago.

The Chair: Ms Bryce, do you want to comment?

Clerk of the Committee: All recorded votes are

deferred to the end of clause-by-clause.

The Chair: Page 19, a PC motion, section 7 of the bill, subsection 4(6) of the Planning Act: All in favour? Opposed? That's defeated.

Page 32a, a government motion, section 10 of the bill, subsection 17(2) of the Planning Act: All in favour of the motion? Opposed? That carries.

Page 34a, a government motion to section 10 of the bill, subsection 17(3) of the Planning Act: All in favour? Opposed? That carries.

A government motion to section 10 of the bill, subsection 17(9) of the Planning Act: All in favour? Opposed? That carries.

Section 48, a PC motion to section 10 of the bill, subsection 17(22.1) of the Planning Act: All in favour? Opposed? That is defeated.

Page 54, a government motion to section 10 of the bill, clause 17(29)(b) of the Planning Act: All in favour? All opposed? That carries.

Section 66, a government motion to section 10 of the bill, section 17.1 of the Planning Act: All in favour? Opposed? That carries.

Section 67 is a Liberal motion to section 10 of the bill, section 17.1 of the Planning Act.

Mr Curling: A recorded vote on this, please.

The Chair: Page 68 is a PC motion to section 10 of the bill, section 17.1 of the Planning Act. All in favour? Opposed? That is defeated.

At page 93 is a Liberal motion to section 25. A question to you, Mr Curling: You have submitted page 93, so we've got two motions. One of your motions is a replacement of the other. Do you want to withdraw the first in order to move—

Mr Curling: Let's do the clause-by-clause first.

1700

The Chair: Mr Curling, I'm not sure whether we could do that procedurally. Can we do that?

Clerk of the Committee: Yes, that's fine.

The Chair: We were thinking that Mr Curling could withdraw it even though Mr Eddy had moved it.

Mr Curling: I can't withdraw it, is that it?

The Chair: Let me just ask it differently. Is there unanimous consent to allow Mr Curling to withdraw this motion?

Interjection: No.

The Chair: All right. So Liberal motion, page 93, section 25 of the bill, subsection 45(14) of the Planning Act: All in favour? Opposed? That is defeated.

Page 93 is a replacement Liberal motion, section 25 of the bill. It's a new one.

Mr Stockwell: But that's out of order now, isn't it?

The Chair: No, it's a different motion. Section 25 of the bill, subsection 45(12.1) of the Planning Act.

Mr Curling: Recorded vote.

The Chair: Recorded vote.

Mr Stockwell, did you want your 20-minute recess?

Mr Stockwell: Not right now.

Mr McLean: On a point of clarification, Mr Chair: Are we finished with paragraph 17(22)1?

Mr Stockwell: Mr Chair, what are we doing?

The Chair: Mr McLean has asked a question. Just hold on. When we get there, we'll know the answer.

Mr Stockwell: I thought it was something else.

Mr McLean: When we were dealing with this in clause-by-clause, I had a resolution and it was put on hold and it has never been dealt with: paragraph 17(22)1.

The Chair: Mr McLean, the clerk is going to come and check things out.

Mr Stockwell: Have we resolved the Liberal thing yet? I want to know what's going on with the Liberal motion. There seems to be some confusion.

The Chair: We're not dealing with that right now, Mr Stockwell.

Mr Stockwell: We were.

The Chair: We're just clarifying something. Okay, Mr McLean?

Now we're going to go back to the motions where people have asked for a recorded vote. Page 141, on a recorded vote.

Mr Stockwell: Mr Chair, what happened to 93?

The Chair: What I'm going to refer you to is the page we're dealing with, Mr Stockwell. We're on page 141, a PC motion.

Mr Stockwell: What happened to 93? That's what I want to know.

Clerk of the Committee: Is that page number 93?

Mr Stockwell: Yes.

Clerk of the Committee: The first one lost and the second one was deferred to the end for a recorded vote.

The Chair: We're going back to those matters where people have asked for recorded votes, so we're on page 141 now.

Mr Curling: On those pages, like page 93 and page 18, are you going to put them in sequence now and just take them and record which is quicker?

The Chair: We're going to go in the order that we are in the book and we'll deal with them as we get there.

Mr Curling: So when you're finished, then you go back again to page 18 and what have you.

Clerk of the Committee: In accordance with the time allocation motion, all those amendments and sections on which recorded votes were requested have been deferred to the end. We've gone through the bill; now we're going to go back to all the recorded votes in sections that have been requested by members.

Mr Curling: And you'll take this one although it is earlier on in the section. I just wonder if it's easier.

Clerk of the Committee: Yes, we're just going back to the beginning.

Mr Curling: Okay, all right.

Mr Stockwell: Mr Chair, can I take my 20-minute recess now?

The Chair: A 20-minute recess; reconvene at 5:30.

Mr Bisson: Mr Chair, we're in the process of voting. It is out of order to call a recess in the middle of a vote. You have to do it at the beginning of the vote.

The Chair: I think it's in order at the moment, Mr Bisson.

The committee recessed from 1707 to 1727.

The Chair: Okay, the 20 minutes are up.

We are on page 141, PC motion, section 30 of the bill. All in favour? Opposed? The motion is defeated.

Clerk of the Committee: They asked for a recorded vote.

The Chair: This is a recorded vote, exactly. On the recorded vote, then.

Clerk of the Committee: All opposed? Mr Wiseman, Mr Wilson, Ms Haeck, Mr Bisson, Mr White, Mr Hayes.

The Chair: The motion is defeated.

Page 141a was carried.

Page 142, section 30 of the bill; it's a government motion. All those in favour, on a recorded vote?

Clerk of the Committee: Mr Wiseman, Mr Wilson, Ms Haeck, Mr Bisson, Mr White.

The Chair: Carried.

Page 143, Liberal motion. That lost.

Interjections.

Mr Hayes: Where are you?

The Chair: Page 154, government motion, section 30 of the bill. All in favour? Same vote. That carries.

We're on page 157, government motion. We are on section 30, as amended. All in favour? A recorded vote? Same vote? That carries.

Page 157(ii), section 31(1) of the bill. Same vote? That carries.

Page 157b, government motion, new motion, subsection 31(8) of the bill. Same vote? That carries.

Page 157c, government motion, subsection 31(9). Same vote? That carries.

On section 31, as amended, all in favour? Same vote? That carries.

On section 32, same vote? That carries.

Page 161, government motion, section 37 of the bill. Same vote.

On section 37, as amended? Same vote. That carries.

Page 164, government motion, section 41 of the bill. Same vote. That carries.

Page 165 is a Liberal motion, section 41 of the bill. Same vote reversed.

Page 166 is a PC motion. This amendment is identical to the previous Liberal amendment, so this is out of order.

Section 41. That was a government motion, by the way, 164, that carried, so on section 41, as amended. All in favour? Carried.

Do you want a recorded vote on that again?

Clerk of the Committee: Mr Wiseman, Mr Wilson,

Ms Haeck, Mr Bisson, Mr White, Mr Hayes.

The Chair: Page 168 is a replacement government motion. That's section 42 of the bill. Same vote? All right.

Section 42, as amended. Same vote.

Section 43. Same vote.

Page 169, government motion, section 43.1 of the bill. Same vote.

Section 44. Same vote.

Section 45. Same vote.

Page 171, government motion. Same vote.

Section 46 of the bill: It's a government motion, page 171. Same vote. That carries.

Section 46, as amended. Same vote. That carries.

Page 172 is a Liberal motion, section 47. Same vote reversed. Motion lost.

Page 173 is a government motion. Same vote reversed. That carries.

Section 47, as amended. Same vote. That carries.

Section 48. Same vote. That carries.

Section 49. Same vote. That carries.

Page 174 is a Liberal motion. Same vote reversed. That is defeated, then.

Page 175; it's a government motion, section 51 of the bill. All in favour? That's a recorded vote.

Clerk of the Committee: Mr Wiseman, Mr Wilson, Ms Haeck, Mr Bisson, Mr White, Mr Hayes.

The Chair: Opposed? You have to raise your hand, please. It's a recorded vote. You're asking for a recorded vote on this.

Mr Curling: Let me find my spot. This is 175, government motion.

Mr Hayes: He's in favour.

Clerk of the Committee: He's in favour? Mr Eddy?

The Chair: Mr Curling, sorry, it's a recorded vote.

Clerk of the Committee: Mr Curling in favour also.

The Chair: That carries.

We are on page 176. It's a Liberal motion, section 51 of the bill. Same vote reversed. That is defeated.

Interjections.

The Chair: Let's call for a recorded vote so it's clear. All in favour of the motion before us?

Ayes

Curling, Eddy, McLean.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: The motion is defeated.

Page 177, Liberal motion, section 51 of the bill. All in favour of that motion?

Ayes

Curling, Eddy.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, McLean, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That motion is defeated.

On section 51, as amended, all in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean.

The Chair: That carries.

Page 180, replacement. I think we ruled that 178 and 179 were out of order. Okay?

Mr Curling: You ruled that one was out of order?

The Chair: We had ruled that already, yes. We're on pages 180 to 182. It's a government motion, section 52 of the bill. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean.

The Chair: This motion carries.

Page 184, Liberal motion.

Mr McLean: You haven't dealt with 179 yet.

The Chair: We did. It was out of order.

Mr McLean: I moved an amendment to that motion. I want that to read "20,000."

The Chair: Whatever amendment you made, Mr McLean, they were both out of order, okay?

Page 184, Liberal motion, section 52. All in favour?

Ayes

Curling, Eddy.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, McLean, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That motion is defeated.

Mr Hayes: Thank you for your support, Allan.

Mr McLean: Is that 178?

Clerk of the Committee: No, 184.

Mr Curling: What we did was 184. You voted for it.

The Chair: No, he didn't.

Interjections.

The Chair: Section 52, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: Okay. It carries.

Page 185, government motion, section 53 of the bill, subsection 374(1). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

All in favour of section 53, as amended? Same vote?

Interjections: No.

The Chair: All in favour raise your hands, please.

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

We're now on section 54. All in favour of section 54?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

1740

We're now on section 55. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: Section 56: All in favour?

Mr McLean: What page are we on?

The Chair: I did say we're on section 56 of the bill.

Clerk of the Committee: Page 71.

The Chair: All in favour of section 56?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: We're on section 57 now. All in favour of section 57?

Mr Stockwell: Don't you have a motion on 57?

The Chair: No, there are no amendments. All in favour of section 57?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

We're now on page 186, government motion, section 57.1 of the bill. All in favour? Same vote?

Mr Stockwell: No.

Ayes

Bisson, Haeck, Hayes, McLean, White, Wilson, Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're now on section 58. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

Page 187, government motion, section 59 of the bill.

Mr Gary Wilson (Kingston and The Islands): Same vote.

Mr Stockwell: No.

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

Section 59, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

All in favour of section 60?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

Page 188, government motion, section 61 of the bill. All in favour?

Ayes

Bisson, Curling, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Eddy, McLean, Stockwell.

The Chair: All in favour of section 61, as amended?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

All in favour of section 62?

Clerk of the Committee: Mr Wiseman, Mr Wilson, Ms Haeck, Mr Bisson, Mr White, Mr Hayes.

The Chair: Opposed.

Clerk of the Committee: Mr Stockwell.

Mr McLean: I'm in favour of it.

Clerk of the Committee: Mr McLean in favour.

Interjections.

Clerk of the Committee: Also in favour are Mr Stockwell, Mr Eddy, Mr Curling—excuse me, Mr McLean was also in favour. Mr McLean in favour, Mr Stockwell opposed.

The Chair: It carries.

Page 189, government motion, section 62.1 of the bill: All in favour?

Clerk of the Committee: Mr Wiseman, Mr Wilson, Ms Haeck, Mr Bisson, Mr White, Mr Hayes, Mr Eddy, Mr Curling.

The Chair: Opposed?

Mr McLean: I haven't read it yet.

The Chair: There's no time to read it now, Mr McLean.

Clerk of the Committee: Mr Stockwell, Mr McLean.

The Chair: That carries.

We're now on section 64. All in favour of section 64?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That carries.

We are now on section 65.

Clerk of the Committee: No, section 66.

The Chair: Oh, section 65 carried. Sorry. Section 66: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

Page 189.

Clerk of the Committee: We've done that.

The Chair: We're on section 68 actually.

Mr Stockwell: What page?

Clerk of the Committee: No page, section 68 of the bill.

Mr Stockwell: Mr Chair, it's out of order here.

The Chair: Do we have a page?

Clerk of the Committee: No.

The Chair: Mr McLean is looking for a page number for section 68. Do we have a page? Page 74, Mr McLean. All in favour of section 68?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, McLean, Stockwell.

The Chair: That carries.

Page 190.

Mr Curling: Mr Chairman, may I make a point here? I really feel very clumsy and awkward voting on this thing, because by the time I find what the dickens I'm voting for—I know that they want me to vote, but by the time you move to 69—

The Chair: We'll do our best to slow down.

Mr Stockwell: That's the lifestyle you've chosen.

The Chair: We're on page 190, Mr Curling, government motion, subsection 69(1). All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That carries.

Section 69, as amended. All in favour? Same vote?

Mr Stockwell: No, not same vote.

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: It's the same vote, don't you think, Mr Stockwell?

Page 191, government motion—we dealt with that.

Clerk of the Committee: No, we didn't. Recorded vote; this is a different one.

The Chair: Okay, 191, section 70 of the bill. All in favour of section 70?

Ayes

Curling, Eddy, McLean, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

We're on section 71 now.

Mr Stockwell, let me ask you a question. Do you want to deal with those matters separately or completely from 71 to 84?

Mr Stockwell: No, I want—you're asking me?

The Chair: Yes.

Mr Stockwell: Well, seeing as how you ask me, Mr Chair—

The Chair: No, no. Yes or no.

Mr Stockwell: Oh, I ask you that in the House all the time.

The Chair: I wanted to ask you whether we—

Mr Stockwell: Yes, deal with them individually.

The Chair: Section 71: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: Section 72: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

Section 73: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

Section 74: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

1750

The Chair: They're all in favour. It is unanimous, section 74. That carries.

We're on section 75. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

Section 76: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean,

Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

Section 77: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

McLean.

The Chair: That carries.

Section 78: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

Section 79: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

Section 80: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

Section 81: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

Section 82: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

Section 83: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

Section 84: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

Mr McLean: I don't think we asked for a recorded vote on that one.

The Chair: We did, yes.

Clerk of the Committee: We asked for recorded votes on all of them. Mr McLean.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

We're now on page 192, government motion, subsection 85(1) of the bill. All in favour?

Interjection: Same vote.

The Chair: Same vote?

Interjection.

The Chair: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

Interjection: What are the Liberals—

The Chair: Hold on, please. Sorry. Mr Curling, Mr Eddy, you didn't vote on this matter.

Interjection.

The Chair: Page 192, subsection 85(1). Mr Eddy, do you have a vote?

Mr Eddy: Yes. I vote the same as Mr Curling.

The Chair: Mr Curling, yea or nay?

Clerk of the Committee: In favour, Mr Eddy and Mr Curling.

Mr Stockwell: It's hard to straddle the fence and keep both ears to the ground.

The Chair: This motion carries.

We're now on section 85, as amended. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

Section 86: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

We're now on section 87. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: It carries.

Section 88: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

Page 193, government motion, schedule A to the bill. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That carries.

Page 194, government motion, schedule A to the bill, subsection 1(1): All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That carries.

Page 195, government motion, schedule A to the bill, subsection 1(2): All in favour?

Mr Stockwell: Are you taking all the schedule A's together and then voting as amended?

The Chair: That's right.

Clerk of the Committee: Yes, section by section.

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

We're on section 1 now, as amended, of schedule A. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

Interjection.

The Chair: Schedule A.

Mr Stockwell: Oh, subsection 1(2) of the Ontario Planning and Development Act.

Mr McLean: You said you were on schedule 1.

The Chair: I said section 1, schedule A. Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

We're now on section 2. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

We're now on section 3. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: That carries.

Mr Stockwell: We want a 20-minute break.

The Chair: There's only one break.

Page 196, government motion, schedule A to the bill: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, McLean, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed? Mr Stockwell?

Mr Stockwell: We've done 196. I'm opposed because we've already done it.

Nays

Stockwell.

The Chair: We didn't do it. That carries, by the way.

Page 197, government motion, schedule A to the bill, clause 4(4)(c).

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

Mr Curling: Didn't we just do this?

Mr Hayes: It's different. It's clause 4(4)(c) instead of subsection 4(3).

Nays

Curling, McLean, Stockwell.

The Chair: That carries.

We're on section 4, as amended. All in favour?

Ayes

Bisson, Curling, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

McLean, Stockwell.

The Chair: We're on section 5. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and

The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, McLean, Stockwell.

The Chair: That carries.

We're now on page 197a, government motion, schedule A to the bill, subsection 6(4). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, McLean, Stockwell.

The Chair: That carries.

We're on section 6 now, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, McLean, Stockwell.

The Chair: That carries.

Mr Curling: Wait a second. Where are you now?

The Chair: We're now on section 7. We voted on section 6, as amended.

Mr Stockwell: So 7 is coming after 6?

The Chair: Right. Section 7: All in favour?

Clerk of the Committee: Mr Bisson, Ms Haeck, Mr Hayes, Mr White, Mr Wilson, Mr Wiseman.

Interjection.

The Chair: We're dealing with section 7. Some members have just voted in favour. Are you in favour of that, Mr Curling?

Mr McLean: We've got a problem.

The Chair: No, no, there's no problem.

Mr McLean: Yes, there is a problem.

The Chair: There isn't.

Mr McLean: You're just going too fast. You're not giving us time to deal with them properly.

The Chair: I couldn't go any slower, Mr McLean.

Mr McLean: I feel this is a very unfair situation that we're put in and I don't agree with it.

1800

The Chair: Okay. Section 7, by the way, is carried. We're now—

Mr Curling: We do have a problem. Even when we finish one, we have two different piles of things, and by the time we switch over there to find it, you move on to another one.

Interjections.

The Chair: We're on section 8 now. All in favour?

Ayes

Bisson, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: Mr Curling, your vote?

Mr Curling: I'll vote when I'm ready. What section is it?

The Chair: Section 8. You've got to vote, Mr Curling.

Clerk of the Committee: Mr Curling, are you in favour?

The Chair: That carries. The rest of these other items carried.

Interjections.

The Chair: If you don't mind. Sections 9, 10, 11, 12, 13 and 14 are carried.

We're now on page 198, government motion schedule A to the bill, subsection 15(2).

Ayes

Bisson, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

Clerk of the Committee: Mr Curling, are you in favour?

Interjection.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries. We are now on section 15 now, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: It carries. We're on section 16 of the bill. All in favour of section 16?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

Mr Curling: Shouldn't we be doing 16.1 here, page 198a?

The Chair: We're dealing with section 16. It's a new section.

Clerk of the Committee: It's a new section and it will come after section 16.

The Chair: We've had members say they're in favour and now we're moving on to those who are opposed. Opposed?

Nays

Eddy, Stockwell.

The Chair: Mr Curling, we're on to the section.

Interjections.

The Chair: That carries. We're on page 198a, government motion schedule A to the bill, section 16.1. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries. We are on page 199, government motion, schedule A to the bill, clause 18(2)(b). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Mr Stockwell: Do we need one on 17, sir?

The Chair: We had carried that motion earlier. We are now on section 18, as amended. All in favour?

Ayes

Bisson, Curling, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Eddy, Stockwell.

The Chair: That carries.

Page 200, government motion, schedule A to the bill, section 19. All in favour?

Ayes

Bisson, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Stockwell.

The Chair: That carries.

We're on section 19, as amended. All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

On section 20, all in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on page 200a, government motion, schedule A to the bill, subsection 21(3). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 200b, government motion, schedule A to the bill, subsection 21(4). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on section 21, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on section 22. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We are on schedule A, as amended. All in favour?

Mr Curling: I don't know where it is now.

The Chair: Does somebody have that page for schedule A?

Clerk of the Committee: It's the entire schedule, as amended.

Mr Stockwell: Schedule A?

The Chair: From what page?

Clerk of the Committee: Well, it's the whole schedule, as amended.

The Chair: It begins where to where?

Clerk of the Committee: It starts on page 77.

Mr Stockwell: That's as amended?

The Chair: As amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on section 1 of schedule B. All in favour?

Ayes

Bisson, Curling, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Eddy, Stockwell.

The Chair: That's carried.

Page 203, PC motion, schedule B to the bill, subsection 2(2.1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Ms Haeck: Just a quick question: I had forgotten to mark down if motion 202 was carried.

Clerk of the Committee: That was previously carried.

The Chair: We're now on section 2, as amended.

Mr Stockwell: We did not go on to page 201 then, did we?

The Chair: It had carried previously.

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Mr Stockwell: It had previously carried, so there was no recorded vote on that one?

The Chair: That's right. We're on section 2, as amended, of schedule B. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 3 is carried.

We're on page 204, government motion, schedule B to the bill, subsection 4(1). All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 205, Liberal motion, schedule B to the bill, subsection 4(1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and

The Islands), Wiseman.

The Chair: That is defeated.

Page 206, government motion, schedule B to the bill, clause 4(1)(d). All in favour?

Ayes

Bisson, Haeck, Hayes, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy.

The Chair: That carries.

Page 207, PC motion, schedule B to the bill. All in favour?

Mr Wiseman: Isn't that the same as the one we just did?

The Chair: It's slightly different, Mr Wiseman. Mr Stockwell, it's a PC motion. All in favour?

Mr Stockwell: Are you ruling it's in order?

The Chair: Yes.

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: This motion is defeated.

Page 208, Liberal motion, schedule B, subsection 4(1.1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 209, government motion, schedule B to the bill. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: This motion carries.

Page 210, Liberal motion, schedule B to the bill. All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: This motion is defeated.

Section 4, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 210a, PC motion, schedule B to the bill, subsection 5(1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 211 is a Liberal motion, schedule B, section 5. All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: It's defeated.

We have a Liberal motion, schedule B, subsection 5(3). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Section 5. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 213, government motion, schedule B to the bill, subsection 6(4). All in favour?

Ayes

Bisson, Haeck, Hayes, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy.

The Chair: That carries.

Page 214 I think was deferred. This is identical to the previous one, so this is out of order. We deferred it. This motion is out of order; it's identical to the previous one.

Mr Curling: The previous one—

The Chair: We're now on section 6, as amended. Your motion has been ruled out of order. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on page 215, government motion, schedule B to the bill, subsection 7(2). All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Stockwell.

The Chair: That carries.

Page 216, Liberal motion, schedule B of the bill, subsection 7(4). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 217, Liberal motion, schedule B. All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Section 7, as amended, all in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 218, Liberal motion, schedule B to the bill, subsection 8(2.1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: This motion is defeated.

We're on page 218a, PC motion, schedule B to the bill, clause 8(8)(a). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 219, Liberal motion, schedule B to the bill, clause 8(8)(b). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 220, Liberal motion, schedule B of the bill, subsections 8(10), (11) and (12). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 221, schedule B, subsection 8(14).

Mr Stockwell: Which section?

The Chair: Schedule B of the bill, subsection 8(14). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

We're on section 8 now. All in favour?

Mr Stockwell: As amended?

The Chair: No.

Mr Stockwell: Darn.

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: Motion carries.

Page 222, Liberal motion, schedule B of the bill, subsection 9(1.1). All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

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Page 222a, a PC motion, schedule B to the bill, subsection 9(1.1): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 223, a Liberal motion, schedule B of the bill, subsection 9(2): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

We're on section 9. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 223a, a PC motion, schedule B to the bill, subsection 10(1): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

We're on section 10. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on section 11. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 12: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 13: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 14: All in favour?

Ayes

Bisson, Haeck, Hayes, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy.

The Chair: That carries.

We're on page 224, a Liberal motion, schedule B of the bill, subsections 15(3) and (4): All in favour?

Clerk of the Committee: Mr Stockwell.

The Chair: It's a Liberal motion.

Mr Eddy: Is there any chance to read it?

Clerk of the Committee: Mr Eddy.

Mr Curling: Is this the page 18?

The Chair: Subsections 15(3) and (4).

Mr Stockwell: You're in favour, Alvin; it's your motion.

The Chair: I think Mr Curling is in favour. It's your motion.

Clerk of the Committee: Mr Curling.

The Chair: Those opposed?

Nays

Clerk of the Committee: Mr Bisson, Ms Haeck, Mr Hayes, Mr White, Mr Wilson, Mr Wiseman.

The Chair: It's defeated.

Page 225, a PC motion, is an identical motion to the previous Liberal motion, so it's out of order.

Page 226, a government motion, schedule B to the bill, subsection 15(5): All in favour?

Ayes

Bisson, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Stockwell.

The Chair: That carries.

We're on section 15 now, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 16: All in favour?

Ayes

Bisson, Curling, Eddy, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: It carries.

Page 226a, a PC motion, schedule B to the bill, section 17: All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: This motion is defeated.

We're on section 17. All in favour?

Ayes

Bisson, Haeck, Hayes, Stockwell, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy.

The Chair: That carries.

Page 227, a Liberal motion, schedule B, subsection 18(1): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: That is defeated.

Page 228, a Liberal motion, schedule B of the bill, subsection 18(1.1): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: It's defeated.

We're on section 18. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That motion is defeated. Oh, sorry. This is section 18. That carries.

Mr Stockwell: Hold it. I thought it was defeated.

The Chair: No, I corrected myself.

Page 229, a Liberal motion, schedule B of the bill. We're on section 19 now. All in favour?

Mr Stockwell: What happened to the Liberal motion? Is that what you're doing right now?

The Chair: No, we're on section 19.

Mr Curling: I think you merged the wrong thing. You merged the instructions.

The Chair: Just instructions for the Liberal folks.

On section 19, all in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

Mr Curling: Mr Chairman, I just want to understand this. What is the motion?

The Chair: We're on section 19.

Mr Curling: But what is the motion?

The Chair: "All in favour?" "All opposed?"

Mr Stockwell: It's your own note: just read it. That's all you've got to do: vote against it.

The Chair: All opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 20: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Section 21: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 230, a government motion, schedule B, clause 22(e): All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: The motion carries.

We're on section 22 now, as amended, of schedule B. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on section 24.

Mr Stockwell: No, 23.

The Chair: That carried before. Section 24: All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

We're on schedule B, as amended. All those in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and The Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Mr Stockwell: This vote is a complete joke.

The Chair: We are on page 18, a Liberal motion. There are still a few.

Mr Stockwell: What is it, 18?

The Chair: Section 7 of the bill, subsection 4(6): All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That's defeated.

We're now on section 7. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Page 67, a Liberal motion, section 10 of the bill, section 17.1: All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That is defeated.

We're on section 10, as amended.

Mr Stockwell: Did you rule 68 out of order?

The Chair: No. It was a motion properly before us and it had lost.

We're on section 10, as amended. All in favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: Section 10 carries, as amended.

Page 93, section 25 of the bill, subsection 45(12.1): This is the second 93, do you recall? All right. All in favour?

Ayes

Curling, Eddy, Stockwell.

The Chair: Opposed?

Nays

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: That is defeated.

We're on section 25, as amended. In favour?

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Mr Bisson: I would like to ask for unanimous consent

to open section 33 and subsection (21) of schedule B in order to go to section 33 and to reverse that vote. That was a section we wanted to withdraw from the bill, if we can deal with that by unanimous consent of the committee.

Mr Stockwell: Not a chance.

Mr Bisson: All right, then I would ask on subsection (21) of schedule B if we're able to reverse that vote. Can we have unanimous consent of the committee?

Mr Stockwell: No chance.

Mr Bisson: Thank you very much.

The Chair: Shall the title carry?

Interjections: Agreed.

The Chair: Carried.

Mr Stockwell: No, I don't agree.

The Chair: Shall the bill, as amended, carry?

Mr Stockwell: No. Recorded vote.

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: That carries.

Shall I report the bill, as amended, to the House?

Mr Stockwell: No. Recorded vote.

Ayes

Bisson, Haeck, Hayes, White, Wilson (Kingston and the Islands), Wiseman.

The Chair: Opposed?

Nays

Curling, Eddy, Stockwell.

The Chair: Is it ordered that the Chair report Bill 163, as amended, to the House?

Interjections: Agreed.

Mr Stockwell: No. Recorded vote.

The Chair: That's something we do automatically. I don't think we need a recorded vote.

This committee is adjourned.

The committee adjourned at 1835.

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Murphy, Tim (St George-St David L)
Tilson, David (Dufferin-Peel PC)
- *Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND)
Winninger, David (London South/-Sud ND)

**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Eddy, Ron (Brant-Haldimand L) for Mr Murphy
Hayes, Pat (Essex-Kent ND) for Mr Malkowski
McLean, Allan K. (Simcoe East/-Est PC) for Mr Tilson
Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Harnick
White, Drummond (Durham Centre ND) for Ms Harrington
Wiseman, Jim (Durham West/-Ouest ND) for Mr Winninger

Also taking part / Autres participants et participantes:

Ministry of Municipal Affairs:

Hayes, Pat, parliamentary assistant to minister
McKinstry, Philip, acting director, municipal planning policy branch

Clerk / Greffière: Bryce, Donna

Staff / Personnel: Mifsud, Lucinda, legislative counsel

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 22 November 1994

Journal des débats (Hansard)

Mardi 22 novembre 1994

Standing committee on
administration of justice

Comité permanent de
l'administration de la justice

Subcommittee report

Rapport de sous-comité

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Tuesday 22 November 1994

Mardi 22 novembre 1994

The committee met at 1540 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Rosario Marchese): I'd like to report to the committee that:

"Your subcommittee met on November 19, 1994, for the purposes of organization and recommended the following:

"1. That subject to consultation with the sponsor, the committee proceed with clause-by-clause review of private member's Bill 89, An Act to amend the Health Protection and Promotion Act." The clerk did speak to Mr Tilson, but perhaps we'll have your comment at the end of the reading of the other recommendations.

"2. That prior to the committee proceeding with final review of the victims of crime report under SO 125, the clerk of the committee consult with the designating member of the report." On that, "The designating member would like further review at the subcommittee level prior to final review by the committee." That's what Mr Jackson requested.

"(3) That prior to the committee proceeding with consideration of private member's Bill 168, An Act to ensure Equal Access to Post-Secondary Education, Transportation and Other Services and Facilities for Ontarians with Disabilities, that the Minister of Citizenship be invited to appear before the committee to provide a coordinated briefing on behalf of her ministry and others affected such as Education and Transportation; and that the opposition critics be invited to attend the briefing."

Those were the recommendations that flowed from that subcommittee. Discussion?

Mr David Tilson (Dufferin-Peel): A couple of comments with respect to the first item, which is Bill 89. I have been meeting with a number of the emergency service workers since this was last before this committee. In fact as late as today at noon, the firefighters' associations are meeting in the Royal York Hotel, and I attended at that function and discussed this topic with them.

The ministry has put out a booklet called Communicable Disease Control which has to do with the mandatory guidelines that members of the committee may remember were discussed by Dr Schabas. I don't think it's necessary that the committee go through the clause-by-clause review of Bill 89 as was suggested. Having discussed with some of the emergency services workers, I'm content that this package is acceptable, this book of mandatory guidelines.

However, I believe that since the committee went to

the trouble of holding public hearings on this matter and hearing a number of individuals from medical officers of health, Dr Schabas and other groups, at the very least Dr Schabas or someone from his staff should come and make a presentation to the committee as to the results of his deliberations with some of the parties involved, particularly the emergency service workers. There were a number of police workers, firefighter workers, and I think the ambulance people were involved, who all were involved with respect to this package. I would expect members of the committee would want to be satisfied that they are content with this package.

I would rather the subcommittee's report be amended that rather than the committee proceed with clause-by-clause review, Dr Richard Schabas be invited to attend before the committee, or his designate, to review this package.

I had one other comment on another matter, which I don't think the—

The Chair: Let's deal with that first.

Mr Tilson: On the list of bills, looking at the package that the clerk has given to us, you'll recall that there has been a bill that's been before this committee for some time, and that is Bill 3, which is An Act to provide for Access to Information relating to the affairs of Teranet Land Information Services Inc.

This matter received second reading in the House, I believe back in September 1993. I could be corrected, but it was certainly some time ago. Of course, it was introduced back in the spring of 1993, and that bill was not proceeded on at my suggestion, mainly because of discussions I had with some of the ministry officials. My concern since those discussions is that I have heard very little from the ministry concerning Teranet. As well, I am continuing to receive criticism, particularly from people in the legal community and the surveying community, criticizing this process.

I would ask the members of the committee that we continue on—I think this is one of the oldest bills that's before the committee—that we proceed to spend some time with public hearings on this bill.

Mr David Winninger (London South): I was having a quick conversation with the clerk. Is Mr Tilson asking that we proceed with public hearings on Bill 3?

Mr Tilson: Yes.

Mr Winninger: I thought now that there had been an agreement to fully release the text of all the legal agreements involving Teranet, and that while earlier the freedom of information commissioner had taken a more

restrictive approach based on appeals that have been made to his office, now that the Teranet legal agreements have been made fully available to any requester since December 1993, there wasn't any need to proceed with Bill 3 and there now was a basis for providing information on the partnership arrangement on a much more comprehensive basis.

I guess I would throw it back to Mr Tilson and ask him why, even in the face of the much more open disclosure that requesters now get, there's really any need to proceed with Bill 3?

Mr Tilson: You may recall how this issue developed was that there were no parts of the agreement that were released and it all stemmed from a television program, I think it was W5, which questioned the secrecy of this whole process, even going back to the tendering processes as to how the successful bidder of Real/Data succeeded on this project. After considerable pressure from the media and others, you are quite right, those agreements were made public.

1550

This bill goes much further than that. This bill refers to all records within the meaning of the legislation. If you read the bill, it's a very brief bill, it's only three or four sections, and I'll just repeat very briefly:

"...request all records within the meaning of that act that,

"(a) are in the custody or under the control of the crown; and

"(b) relate to the affairs of Teranet Information Services Inc or the agreement between the minister and Real/Data Ontario Inc dated the 15th day of February 1991."

You're right, the original agreements have been released, but this piece of legislation goes much further than that. The concern that I'm sure all members of the House have is that this government and other governments across this land are getting into more joint ventures with public groups and the public are concerned about the control or the accountability between the government and those particular groups. This is just one of them, and it's a very large area.

The impact on our society with respect to the computerization and the involvement with respect to private corporations is quite substantial, and I'm not going to start going through the debate that we've had in the House on many occasions, and in this committee on many occasions, other than the fact that I think because of the concerns that continue to come forward and, quite frankly, the lack of report in the House on the progress of this particular company, I'm even more certain than I was when I first introduced this bill that this type of information should be made available, and hopefully would be used as a precedent for other matters, such as casinos.

We're getting into all kinds of joint ventures with private corporations, and all of these matters will have to be pursued in the future. I again repeat that I believe there should be some time with public hearings to review this piece of legislation.

Mr Winninger: I just want to say that if we had all the legislative time in the world, we could have hearings on every one of the bills before the committee, but it seems to me that a lot of progress has been made towards disclosure and that Mr Tilson hasn't up till now seen fit to want to move this bill forward again, so I don't think it could be too pressing or urgent.

But now, for example, we have Bill 168 before the committee, An Act to ensure Equal Access to Post-Secondary Education, Transportation and Other Services and Facilities for Ontarians with Disabilities, sponsored by Mr Malkowski. I, for one, would like to see public hearings on that bill, and I think that's got very widespread impact. It's very timely and I think worthy of this committee's attention, rather than to rehash Teranet where considerable progress has already been made outside of this committee.

The Chair: Mr Harnick, on the same issue. You may all decide to comment on all of the matters before you or simply stick to the issue of Bill 89, and I suspect there's no disagreement about that, or Bill 3, how that meets with our desire perhaps to deal with Bill 168. You might bring the whole thing in or just comment individually.

Mr Charles Harnick (Willowdale): Yes, I shall. Mr Tilson has been quite clear about how he would like to proceed with Bill 89, to deal with the issues brought up, and I think we should do that.

The next issue really is what we do with Bill 3, and it's Mr Tilson's bill. It's been around forever and he now wants to proceed in a certain way, which he is entitled to do. I think that the way this committee has always worked, at least since I've been here, is that we do it on the basis of which bill was delivered to the committee first. Clearly Bill 3 is the bill that was delivered first, and Mr Tilson, as the sponsor of that bill, is entitled to proceed with it as he sees fit.

I don't think, with all due respect to Mr Winninger, that what we really are deciding here is which bill is more meritorious, Bill 3 or Bill 168. The issue is that Mr Tilson has a private member's bill before this committee, it was delivered before any of the other bills, and he has now made a firm decision as to how he wishes to proceed. The procedures of this committee would dictate that that bill take priority because it's the next one in sequence. I'm not saying that Mr Tilson's bill is more important or less important than Mr Malkowski's bill, because that's not the issue.

The issue is that Mr Tilson, as a member of this committee, has every right to have his bill heard, and the protocol of the committee is to hear these bills in order of when they arrive at the committee, so I don't think there's really an issue here to discuss. We do Bill 89, we do Bill 3 and then we move on to Mr Jackson's 125 and complete that, and when that's done, in sequence, we then deal with Mr Malkowski's bill.

The Chair: If I can comment—I've got two speakers, Ms Harrington and Mr Murphy—two things: What Mr Harnick is saying is normally the way things would happen, but it doesn't prevent a committee making different kinds of decisions. That's the other matter.

Mr Harnick: I don't think—

The Chair: If I can, Mr Harnick. Hold on. The other point is, what none of you have discussed is—

Mr Harnick: On a point of order.

The Chair: I'd like to finish the sentence first, before we deal with that other matter. Some of you may also want to discuss how all of these might fit into the present time that we've got or during the intersession. None of you have talked about that or the kind of timing that you might want for each. It's quite possible that we could do all of them and none of you have talked about that. You might want to talk about how many days you might want to allow for these items to be dealt with. If you can deal with some of those issues in that context, we might be able to deal with all of them. Mr Harnick.

Mr Harnick: I appreciate the Chair's position in all of this. However, I don't think that it's proper that we all of a sudden decide that we are going to deal with these matters on the basis of a vote of the committee. Because if that's the case, you're setting a very dangerous precedent, the precedent being that the only ones who get to be heard are the government members, because they have more people on the committee.

The fact is the protocol of this committee has always been that we do these things in order of the way that they're filed. Clearly Bill 3 is a lot earlier than Bill 168, and if we're ever going to clean up the docket of this committee, particularly now that it looks like we're not going to be receiving any public bills, we should be doing it in the order of the usual protocol of the committee.

Ms Margaret H. Harrington (Niagara Falls): I just want to comment on these three items. First of all, Bill 89: You asked, I believe, Mr Tilson, if you could have Dr Schabas appear before the committee. Is that correct?

The Chair: That's what he's asking.

Ms Harrington: You asked for Dr Schabas to come before the committee?

Mr Tilson: I haven't asked him but I would hope that the Chair would.

Ms Harrington: You're requesting. Okay.

The Chair: Yes, he was requesting that we invite Dr Schabas to come, for an hour presumably. Is that it?

Mr Tilson: Sometime, whether it requires the whole afternoon I don't know.

Ms Harrington: As far as I'm concerned, I think that might be possible. I think we would obviously have to look at his schedule as well before we go ahead and book anything like that. If it's an hour or whatever, I have no problem with that.

Mr Tilson: It may not have to be Dr Schabas. It could be someone—Dr Schabas or a member of his staff.

The Chair: It shouldn't be a problem. We should be able to get him.

Ms Harrington: Secondly, with regard to Bill 3, it's my understanding that Teranet has gone into effect some time ago, and it's all open, the agreements are there for everyone to look at. I don't believe at this time that we should take up the time of this committee to deal with

that particular bill. I believe the ministry is available to you to answer any of your questions and to work with you on this. Therefore, I would like to, as soon as possible, start Bill 168.

1600

Mr Tim Murphy (St George-St David): Generally, I think I agree with Mr Harnick and the subcommittee report, basing it primarily on our having a tradition of dealing with bills as they've been presented or referred to the committee by the House, and in fact it relates not to what the bills are but to the order. In fact, on Bill 3, I think it was probably the Liberal government that set up Teranet, if I'm not mistaken.

Mr Tilson: Mr Kormos.

Mr Murphy: Yes, some people created some embarrassment for the previous Liberal government on the issue. But in the tradition that we do deal with bills in the order presented on the basis of the wishes of the member, I think it makes sense then, on that basis, to deal with Bill 3, then Bill 89, for whatever amount of time is appropriate. Given the bill, I suspect just an afternoon or two probably would be sufficient for Bill 3. An afternoon probably would be sufficient for Bill 89.

As to the victims of crime report, I'd actually like to see a way through to have the committee spend more time on it. I gather that there is an interest in terms of—I know there's only three minutes left in the 125, but I'm wondering whether we can't get more time on that report through a standing order 108 or whatever the mechanisms are that would allow us to schedule time on the topic at our own discretion to a certain degree, or make a request as a committee to the House leaders to get more time.

I think it's an important issue. We've spent a lot of time on it and it would be helpful, I think, to complete the report in the context of the rising concern about crime and the role of victims. I think that's worthwhile and I think, in the sense of scheduling the order, I see this recommendation number three in terms of Bill 168 and I think that makes sense. I'd like to hear that briefing and then proceed from there.

The Chair: Mr Tilson, how long do you think we need to deal with Bill 3? Do you have a sense of that?

Mr Tilson: As I said, with respect to the communicable disease control, an afternoon or less. It shouldn't take that long for Dr Schabas to make that presentation.

The Chair: Bill 3?

Mr Tilson: With respect to Bill 3, I would think that the public hearings would take no more than two days with two afternoons.

Mr Murphy: You could probably do the whole thing, clause-by-clause and all of it, in two days.

Mr Tilson: Yes, two days: one afternoon for hearings and one afternoon for clause-by-clause.

The Chair: All right, just to get a sense of that. We didn't get a sense of Bill 168. Once we hear the ministers or their staff talk about this, I guess at that point we might determine what time we would need for that without giving a sense of commitment now. Anyway, having a sense of that, Mr Winner.

Mr Winninger: I didn't mean to diminish Bill 3 in any sense. It's just that bills come before this committee and, quite frankly, I think the opposition parties have used a fair amount of time on this committee dealing with standing order 125 referrals dealing with private members' bills.

I can remember a time when Mr Tilson said he didn't want to move on Bill 3; he wanted to move on Bill 89 or he wanted to move on something else. It seems to me that if you just stick with the order of precedence here, any member of the committee can at any time, if he or she doesn't like another bill or has some hesitancy about the voting time to another bill, say, "I want to pull up my bill now."

I think there's a problem with that and I think, given the amount of progress that has been made with respect to Bill 3 and given that we don't have a lot of time available for committee hearings, it's more appropriate that we deal with Bill 168.

There are other bills, I know, that are before the committee, but opposition members have voluntarily withdrawn them. I'm thinking of Bill 56, for example, Mr Harnick's bill, that at one time we were very anxious to proceed with, but—technically he didn't withdraw it, but he voiced his desire to withdraw it. So it seems to me that this committee—

Mr Murphy: Exactly. In that case you proceeded—

Mr Winninger: It seems to me that this committee cannot be bound just by the order in which bills come before the committee. We have a little more discretion when it comes to considering how we're going to use the time that's available. We have two weeks left, I believe, that this committee can sit, and it would seem to me, other than time that Mr Tilson has requested to deal with Bill 89, having Richard Schabas appear before the committee, which some people say might take as little as one hour, that it would be appropriate that the committee devote the rest of its time to hearing from the ministries on Bill 168 and any individuals or groups from the public who want to present on 168.

Mr Tilson: I just have a couple of comments in response to your remarks and Ms Harrington's remarks. This bill was introduced long after Mr Kormos, when he was Minister of Consumer and Commercial Relations, signed the agreement, and I must confess it was because of everything that surrounded that and the television program W5 and all of the discussion, if I can just remind you. All of that came into being, and there was the fear of lack of accountability on this whole topic.

That's why the bill was introduced and that's why it got the support of the House on second reading and that's why it's before this committee. The House felt that there was an issue of concern with respect to accountability on something of this nature, so that your comment that the contracts were long since signed, of course that's the case, that's why the bill was introduced.

It took a television program and a lot of bantering on the part of the opposition to get the contracts released. The bill goes much further than the contracts. So I can only say to your remarks, when you say "the progress

that's been made," the reason why it was delayed some time ago was that I had a meeting with some of the ministry staff in my office and I was persuaded that it wouldn't be appropriate to bring this matter forward, that there was progress being made.

But that was some time ago and there hasn't been any progress made on this whole issue. I'm just guessing at time; it certainly exceeds a year and that is why it is being brought forward at this time. You must remember we've had some very controversial pieces of legislation before this committee, government legislation, and that's why everything else has been put on hold.

Quite frankly the comment that was made by Mr Harnick that it has been precedent-setting, that the rule goes and you've said the comment, "There's no reason why all of these matters can't be dealt with in the time allotted." I'm just simply saying that my bill was introduced back in 1993. It received second reading in 1993. All of these other pieces of legislation have received second reading in 1994. Why should my bill take a back seat to these other pieces of legislation? It's just as valuable as the others in different ways and that was deemed by the House.

I'm saying that there has been a precedent set in this committee. There has been a precedent set in every committee in this place that you take it in order, and, obviously, Bill 3, by the very nature, is much higher than these other bills. I'm simply saying that I think it's reasonable that there be public hearings for a day. I think it's reasonable, like any other bill, that there be clause-by-clause and that that could take a day. With respect, Mr Chair, I would hope that you would use your position of Chair to support the practice of this committee and that we take those in order of precedence.

Ms Harrington raised the issue of Dr Schabas, whether he or another member of his staff is available. That's quite reasonable. Whether that's first or not, I think that should be then followed by Bill 3, followed by the remainder of Mr Jackson's issue.

I understand that he wished to approach the subcommittee with an effort of receiving unanimous consent because of all of the concern about victims of crime, particularly in 1994, and all of the issues that have been going on with victims of crime. He wanted further time for this committee to deliberate on that issue, and he may have some more things to say about that. I'm not a member of the subcommittee and perhaps a member of the subcommittee could talk on that. Then I think there would be plenty of time to deal with Bill 168.

The Chair: Does the committee have a sense of requiring some time to reflect on this, maybe five minutes, or are you ready to continue?

Mr Murphy: Can I ask a question? Not a speech; a question.

The Chair: I've got other speakers though. I was just wondering whether you would want to take five minutes to talk to each other.

1610

Mr Murphy: If I can, what I wanted to know, in order to be able to answer the question you just put, is

actually what the counterproposal is. Is it to do away with—

The Chair: I think the argument Mr Winninger is making—

Mr Murphy: —to go straight to Bill 168 and not do any of these? It's just I'm not clear.

The Chair: Mr Winninger, the question that Mr Murphy was asking is, is it your intention or preference to proceed with Bill 168 first and then Bill 3 or not to deal with Bill 3? That's the question he's posing.

Mr Murphy: And what the concept of the ordering of business seems to be.

Mr Winninger: The motion that I was going to put forward was to deal with Bill 89 for an hour or so, to have Richard Schabas come in and then to spend the rest of the time available over the next two weeks dealing with Bill 168. That was the motion that I was going to put to the committee.

Ms Harrington: And make sure that the ministry works with Mr Tilson with regard to his concerns around Bill 3.

Mr Harnick: May I make a compromise?

Mr Winninger: I thought that was.

Mr Harnick: May I suggest that we deal with Bill 89 and then Bill 3 and then leave Mr Jackson's 125 out of the mix for now and go immediately into Bill 168? We then will have a briefing on Bill 168 which will tell us exactly how extensive the hearing process need be. We will then be in a position to dictate our time, and I suspect we're coming back here in January anyway, aren't we? I mean we've got the whole month of January to deal with Bill 168. Wouldn't that be the logical way to do it? We've got to have the ministry briefing to understand what the ramifications of the bill are because it deals with several ministries.

Mr Murphy: I think there's some sense to that. I'm not familiar with the details of Mr Malkowski's bill, but by virtue of the title, we've got post-secondary education, transportation and other services and facilities. It's pretty clear it's a fairly broad bill that deals with a lot of ministries, a lot of services, and there is some logic to getting a sense of the scope of matters that deal with what and whether those various services of ministries, facilities and affected parties will want to come forward, what kind of notification we'll have to give to affected parties who might want to come forward.

It makes some sense to have a briefing from the ministry prior to scheduling all of that time, and I think Mr Harnick's right that we do have January and at the very least, I think to be fair to the people who are affected, both within the disabled community, ARCH and others, and also to affected facilities and services, that they have time to review the bill and assess its impact before we go ahead. I mean we can't just start it next week and assume that people are going to be ready or even have a sense of what the impact of the bill is.

The Chair: Just to give an opinion from the Chair, it's very difficult not to deal with bills as they come before us and, if the member decides that they want their bill to be dealt with, it's very hard for the Chair to say

that we should just allow the committee to decide the order of these bills. That puts me in a difficult position.

So I'm suggesting that we deal with the practice in the way that we have, that we do deal with Bill 89 first, and I presume Mr Schabas would be available for that, and that we take the two days to hear some folks and then do the clause-by-clause and then have the one day where we hear the minister or ministry dealing with Bill 168 and, after that, decide whether or not how long we want in the intersession to deal with Bill 168. I would propose that to the committee.

Mr Harnick: Agreed.

Mr Winninger: I can accept that approach only in part, but I reject the other part, and I don't want to repeat myself on this. I don't think any member of this committee has a problem with having Dr Schabas come and speak to the Bill 89 matter, and that shouldn't take a lot of time.

The best information I have is that whatever concerns Mr Tilson has at this stage can be dealt with outside the purview of this committee, can be dealt with in direct communication or as a question in the House or whatever. But given the amount of time that's available before the end of the sitting, it's appropriate that we deal with Bill 168, and I'm advised that at least—

Mr Harnick: You're taking his rights away.

Mr Winninger: Can I complete what I'm saying? I'm advised that at least two of the three ministries affected by Bill 168 are prepared to come before this committee as early as next week, and the third one is presently being contacted. So I don't think there's a problem getting the ministries in to brief the committee on Bill 168.

Now it may be that Mr Tilson's concerns will still persist after he speaks to the ministry or after he asks his question in the House or whatever, and then I think that the committee should consider whether it needs to devote more time to Bill 3 or not. But I don't think that there's any iron-clad rule.

The committee has to determine the order of priority that the committee considers legislation in, and I don't think you can simply say it goes one, two, three, because on many occasions the opposition has objected to that. They've said: "We don't want this bill to go forward now. There's another bill we want to go forward." That has happened many times on this committee. There have been many bills and matters discussed before this committee since Bill 3 was referred to this committee, and many of those matters were promoted by the opposition, so I don't think you can go back now and say we do these all in order of precedence.

Mr Harnick: Mr Chairman, I have another compromise.

The Chair: Mr Malkowski. Hold on, please. Let me take the speakers in order.

Mr Gary Malkowski (York East): I would like to respond to some of the comments by the members of the committee, specifically about the briefing. I agree that we do need to have a briefing from the ministries of Citizenship, Education and Transportation, and I think perhaps any other ministry that feels it will have an impact under

the legislation. Also, I think it's important to have enough time for the disabled community to study what they feel the impact of the legislation will be, and we may require more time to give notice of public hearings.

Thinking of all that, of course the priority is the briefing from the ministries, and I think then, after that, we can decide what we need to do. I think we can't put it off because the disabled community is waiting for something like this.

Mr Harnick: Can I suggest this, and maybe Mr Malkowski will be content with this? Can we deal with Bill 89 and have Dr Schabas come in and get rid of that, and then immediately after that, or the next session, the next day, we can have the briefing on Bill 168 so that we then understand the ramifications of that bill and we will then know what time to allocate for it, whether we want to advertise, what all the ramifications might be.

We can then set aside Bill 168 and proceed with Bill 3 while we're doing the preparation to continue with the committee hearings on Bill 168.

We're going to have the briefing, we'll know what the time allocation should be, and we can then, while the advertising is taking place, because we're going to have some delay getting together all the groups, have Bill 3 done and gone, then come back to Bill 168. But we will have the briefing on Bill 168 so that we won't waste any time in determining what has to be done, and while we're doing Bill 3, the mechanical work on Bill 168 getting ready for the hearings can be done so that we can do it in January.

The Chair: A suggestion is put forth by Mr Harnick.

Mr Murphy: Sounds fine.

Mr Winninger: I think we can go partway in this regard: One hour on Bill 89, the briefing on Bill 168, and then maybe the committee can decide how it wants to deal with Bill 3 and other issues, including the remainder of hearings on Bill 168.

Mr Harnick: Well, let's do Bill 3 right after. We'll need the time for that.

Mr Winninger: I don't think you heard me. I said let's deal with Bill 89 for an hour or what it takes, let's have the briefing on Bill 168 from the three ministries, and then through subcommittee or full committee, we decide how we want to manage the rest of our time. Not everyone gets what they want, but there has to be some compromise here.

The Chair: Is that all right?

Mr Harnick: That's fine.

The Chair: All right. Mr Winninger, the clerk requires clarification here. My assumption from what you suggested is one day is Bill 89, is that correct?

Mr Winninger: Yes.

The Chair: One day meaning one hour, more or less.

Mr Winninger: I think we should have Bill 89 for next Monday, for example, and then have at least one minister or two ministers standing by to brief us on Bill 168.

The Chair: For the next day? Do you want to do both

in the same day or to do two days for the different issues?

Mr Winninger: What would be wrong with scheduling one hour for Bill 89 and the remainder of the justice committee on Monday for one of the three ministries that might be available to brief the committee?

Mr Murphy: This is in relation to Bill 89. How long were they in here for? I know I've met with firefighters and I'm sure David has and others. It's a fairly thick binder. An hour means we'll have half an hour or 40 minutes of presentation and then that leaves us only a few minutes per caucus to ask questions. So realistically we're going to have a half-hour to 45 minutes worth of briefing and we're going to want 20 minutes per caucus at least, minimum, to ask questions. You're already heading towards two hours. If we start at 3:30, which means quarter to 4, it's quarter to 6 when we're done. That's a day.

It's unfair, as I'm sure you'll recognize, to have ministers on call. Truthfully, that's not going to happen. I think it makes a lot more sense to have 89 on Monday, and we'll go with 168 on Tuesday, so everyone has a certain schedule.

Mr Harnick: I agree, and then we have a subcommittee meeting.

Mr Murphy: Subcommittee to deal with the rest of it.

Mr Harnick: To deal with the rest.

The Chair: Is that okay, Mr Winninger?

Mr Winninger: I guess if the other members of the committee can live with it, so can I.

The Chair: Very well. You're moving an amendment then, Mr Winninger, to the subcommittee report requesting that we deal with Bill 89 next Monday; following that, Bill 168 for the afternoon, however long it takes that afternoon of the 29th for the briefing? And we then subsequently have a subcommittee meeting to talk about Bill 3?

Mr Winninger: Perhaps the subcommittee can meet the same day so that we can plan for the following week.

The Chair: All right. Whatever we can arrange.

Mr Harnick: To deal with Bill 3 and Bill 168.

The Chair: Right, in terms of scheduling and timing and so on.

Mr Tilson: We may want to spend more than one day on Bill 168.

The Chair: Is that okay?

Mr Winninger: Yes.

The Chair: All in favour? Opposed? Agreed.

All in favour of the subcommittee report, as amended? Opposed? That carries.

Mr Harnick: I move that the Chair be authorized to report to the House that the following bill be not reported: Bill 56, An Act to protect the Civil Rights of Persons in Ontario.

The Chair: All in favour? Opposed? That carries.

The committee adjourned at 1625.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Jamison, Norm (Norfolk ND) for Mr Bisson
Wiseman, Jim (Durham West/-Ouest ND) for Ms Haeck

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

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Journal des débats (Hansard)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Monday 28 November 1994

Lundi 28 novembre 1994

*The committee met at 1542 in room 228.*EMERGENCY SERVICES WORKERS
NOTIFICATION PROGRAM GUIDELINES

The Chair (Mr Rosario Marchese): We welcome Dr Richard Schabas, chief medical officer of health of Ontario, and Dr Evelyn Wallace, senior medical consultant on the mandatory program guidelines for emergency health workers' notification. I understand that your briefing would take 20 minutes or so, more or less.

Dr Richard Schabas: It can take as long or as short as you'd like.

The Chair: Twenty minutes would probably suffice, and there was an agreement with some of the members that 10 minutes per caucus would suffice for questions, so we'll leave it like that. Dr Schabas, please begin as soon as you're ready.

Dr Schabas: I'm just going to give a very general introduction and then Dr Wallace will walk you through the draft manual. But to pick up, it's been almost exactly a year since we last discussed this matter at this committee and I was given the undertaking that Bill 89 would be stood down pending our ability to implement a mandatory guideline under the Health Protection and Promotion Act to accomplish essentially the same ends.

Following the meeting, I think on November 2, we proceeded to complete the process of consultation that we were already well into with emergency service workers and public health departments and other interested parties—and of course many of them presented at this committee around Bill 89—and arrived at an acceptable mandatory guideline and some general protocols in support of that. They were signed off by the Minister of Health, Ruth Grier, in I believe March or April—

Dr Evelyn Wallace: End of June.

Dr Schabas: End of June; pardon me—allowing for the usual bureaucratic delays, which seem to be unavoidable. But in conjunction with that, we also prepared the manual for designated officers which Dr Wallace is going to walk you through as a way of describing the protocol.

As of I think August, we have distributed our copies through the public health system. I gather there's been some delay with the emergency health system, but I'm assured that they'll be distributed through that system within the next two months, and in addition the emergency health services branch of the ministry is preparing a video to support this.

I'm now going to turn the floor over to Dr Wallace, who's going to just walk us through the protocol as it's laid out in this manual.

Dr Wallace: This is the binder we sent to our 42 health units in August of this year, and at that time I believe the members of this committee received a copy of both the mandatory guideline and the protocol for notification, so there are three components to the contents of this binder.

Probably of most interest is the protocol. I don't know if you've all had a chance to read it or if you're familiar with it or if you're ready to ask questions. My understanding was that I was going to take you through the actual manual for the designated officer, which was why I was asked to be here today, but if you'd like me to talk about the protocol for notification, I'd be happy to do that.

Another content of the binder is this red booklet, which we actually bought from the American Red Cross, Public Safety Workers and the HIV Epidemic. It's just an additional tool to help educate the workers out in the field.

Shall I move straight to the manual for the designated worker? Okay? I believe you now all have a copy of that as well.

If you read through the table of contents, you will see the various aspects of this problem that we've tried to address. One of the problems with the designated officer status was that we discovered that the level of information and knowledge varied quite greatly across the three emergency services, from ambulance attendants, who could indeed have honorary medical degrees, to voluntary firemen, who really had very rudimentary knowledge about the transmission of infectious diseases. So it was quite a challenge to produce this manual. To do it, we once again formed a subcommittee of the Public Safety Services Liaison Committee with representation from the three services, and with a bit of effort we put this together.

The introduction and the background I don't think need have much said about them. Guiding principles for universal precautions I think are now accepted by all three organizations, and I think what makes this protocol unique to Ontario is the designation of a designated officer in each of the emergency services. If you look at perhaps page 5, you'll see in that section we've listed everyone's roles and responsibilities, including the responsibility of designated officer. It will be up to each emergency service organization, hopefully in conjunction with joint health and safety committees, to nominate this individual, who will use this manual when they are dealing with difficult scenarios.

It's the expectation that the worker who thinks they've

had an exposure to the specified communicable diseases that are listed will contact the designated officer, who will then do an assessment of the circumstances of the exposure and may or may not be able to reassure the worker at that stage, but if they need further information, they will contact the local medical officer of health, who will then also investigate the circumstances and give information back to the designated officer, who will contact the worker.

To help the designated officer and to aid with the education, we've put in a fair bit of information about the various diseases. We've also put in various scenarios and walked the designated officer through these, and these are at the back of the binder. We've also put in forms relating to workers' compensation claims for the worker and the employer.

That's it sort of in a nutshell. I'd be willing to talk more about any specific details of the contents.

1550

Mr David Tilson (Dufferin-Peel): Thank you very much, Dr Schabas and Dr Wallace, for coming. It was I who introduced this bill in the House, and it was as a result of conversations and discussions particularly with firefighters, although that then spread to ambulance workers and police officers across the province, and I received substantial correspondence and had substantial meetings with the different groups with respect to the problems in this bill, and you have indeed responded.

Just for your own information, and it is not a critical comment, I too, having only been here a short period of time, understand the slow workings of the system. But I will say that many of the leaders of firefighters and others have received this book, *Protocols for Notification of Emergency Services Workers*. I spoke to a convention of the firefighters last Tuesday at the Royal York, and many of the groups across the province have not received it. I know it was promised for Thanksgiving. So my comments are made on the assumption that the communication has improved, because there was some criticism, rightly or wrongly, of communication with the emergency care workers.

Perhaps that leads to my first question, which is not with respect to the guidelines but with respect to communication with respect to the various groups. Have there been any changes, specific changes that perhaps improved the system of discussing this or any other types of problems with these types of people?

Dr Schabas: To answer the two questions, I mentioned in my preamble that we knew there had been delays with the distribution to emergency service workers, and that's unfortunate. The first part, which was distribution through the public health system, we accomplished last August. The production for the emergency service workers, as I understand it, involves a much larger production and there have just been some delays in that branch of the ministry in terms of getting the tendering and the costs and I apologize for that. That's not an excuse, it's just an explanation of what happened.

On the second question, have we learned something. I think the answer from a public health standpoint is yes,

we've learned a lot. These are not groups that we have a long tradition of consulting with. Firefighters, ambulance attendants and police officers are not a group that public health, at a provincial level in any case, is used to interacting with. I think there's more experience at a local level. I think we've not only learned how to work with them, I think from our standpoint it's been a very successful experience because we've produced a product that everybody is reasonably satisfied with—maybe not everybody is absolutely delighted with, but everybody is reasonably satisfied with.

If I've learned any one lesson, it's that perhaps we should have been a little more proactive in dealing with the concerns of these groups and having had these guidelines maybe a year or two earlier instead of waiting till we had a fire lit under us by your bill.

Mr Tilson: Notwithstanding the fact that many of the groups have not received copies of it, when I spoke to the firefighters, I guess it was at a convention last week, I was told that the one important thing that came as a result of this bill is that with many emergency care workers, as a result of this booklet that you prepared, these guidelines that you prepared, if anything, there has been an improvement in the education, an awareness of problems. People are talking about it so they're taking more precautions. I'm sure you'd be pleased with that.

I only have one other question, and it has to do with the topic of the good Samaritan, the off-duty emergency care worker or the passerby. It's referred to on page 1, and it's more importantly referred to at page—well, I'm not too sure of the numbering here.

Dr Schabas: It's not numbered. It's the fourth page of the protocol.

Dr Wallace: It's item 7 of the protocol.

Mr Tilson: Item 7, exactly. Thank you. The sentence that jumps out, referring to the good Samaritan or the off-duty emergency service workers, is, "These people will not necessarily be covered under the general provisions of these guidelines." I think I understand that, but perhaps you could clarify or elaborate on item 7.

Dr Schabas: Sure. The basic protocol for notification really is aimed at the emergency service worker who has exposure in the course of his or her work and works through the designated officer.

I think what is meant here is that certainly good Samaritans operating on their own, and to some extent possibly off-duty emergency service workers, don't fall into those protocols. A good Samaritan wouldn't call a designated officer with a question, so they're not covered under the—maybe the wording should have referred to the general provisions of the protocols. What this is really meant to do is to alert medical officers of health to treat good Samaritans when they come to their attention, either because, in the course of investigation, they come across a good Samaritan or because a good Samaritan comes to them with concerns. They treat them at their end, at the medical officer of health end, in exactly the same way they would a request from a designated officer.

Mr Larry O'Connor (Durham-York): Thank you for coming today and sharing this with us. I'd like to

congratulate you on your annual report that you put out and commend you for the way you've delivered that and have delivered it on an annual basis. I think it certainly is one that helps keep public health and the health of Ontarians in the forefront.

As Mr Tilson has raised in regard to, for example, the good Samaritan, it's quite often the work that's done by public health that is overlooked in a lot of communities. A lot of communities don't realize the value they add to our community, so I think your annual report certainly does allow that to take place.

Within your protocol, just to comment, I would like to point out that by using the actual case scenarios, I think you actually—I was, for example, looking at the one on page 20 about the car accident. It actually points out a real-life situation and a process that people should go through. I think the way you've designed this manual will certainly encourage discussion and interaction, hopefully by all the emergency workers, so that they can make sure they know how to respond when they feel they've been placed at risk.

Dr Schabas: Thank you for those comments. I think that some of the strength of the manual really reflects on the consultation that went into it. The fact that it seems to be a down-to-earth, real-life kind of manual I think reflects the fact that we had a very good working relationship with the emergency service workers and they had a lot of input, not only into the design of the protocol but into the actual content of the manual.

1600

Ms Christel Haeck (St Catharines-Brock): It is most informative to flip through these different pages and see how much work has gone into developing this information manual.

I noticed, though—and this is something I must admit I hadn't really thought of and I guess this is what makes these sessions so interesting; it is definitely an illuminating experience—you refer to the sexual assault victim. This is towards the back of the manual. While I understand that the initial treatment will in all likelihood happen at the hospital, have you been doing any work at all, and this is relating more to hepatitis, with the transition houses, the women's shelters, on some of these issues relating to possibly hepatitis, since this is what's being referred to, and how they might be able to deal with people in this situation?

Dr Schabas: I don't know for a fact that they have been part of these discussions. Evelyn, do you know?

Dr Wallace: Not in this context, but is your question related to whether they have access to hepatitis B vaccines?

Ms Haeck: Not strictly. I'm a layperson. I'm a librarian in my other life; I'm not a medical practitioner. I've looked at the list of the different kinds of blood-borne diseases and you're talking about some that I know are more than just contagious. They are in fact, in the case of Ebola, not something that you monkey around with.

Dr Schabas: No pun intended since some of these are monkey borne.

Ms Haeck: No, no. You're right, no pun intended. So

you're talking about some of these situations and realizing that there is a range of factors, some real serious health outcomes for the individual who has hepatitis, but as well what the situation is in those shelters for people who may in fact come in contact with someone.

I know there are a lot of volunteers who are working in those shelters who again may not be aware of the range of conditions they may find themselves coming in contact with. I'm just wondering to what degree, that you're aware of, either the public health officers throughout the province or the shelters themselves are carrying on an awareness campaign that they may be coming in contact with these serious situations.

Dr Schabas: The simple answer is that I'm not aware of to what extent they are, but I think the point's very well taken. We like to learn from our experiences and we've certainly learned through this experience of the need to be more sensitive to the levels of knowledge of, in this case, emergency care workers. But I think you've raised another group who might well profit either from a copy of this manual or from some sort of interaction with their local health departments.

It may well be that in a lot of health departments there are those kinds of contacts because they'd have contacts around other things, around sexuality, education and around sexually transmitted diseases. But it certainly bears our looking into it and making sure that's done systematically.

Mr David Winninger (London South): This isn't directly related but since I have the experts before me, perhaps I'll ask you the question.

From time to time, I have inquiries about reporting of positive AIDS findings and how the local health units deal with them. I think I know now how our local health unit in London deals with this, and it's rather complicated. But what I'm wondering is whether guidelines have been issued through your office to all of the health units so that they can report in a fairly uniform way and balance the right to anonymity against the public's right to know and to monitor.

Dr Schabas: There was a policy statement actually issued by the Minister of Health in May 1991 which very nicely laid out what the principles of reporting were. Ontario basically allows three kinds of reporting of HIV infection.

There's the nominal reporting, which is similar to other reportable diseases where information about the individual, including their name and address, is submitted. Almost 50% of HIV-positive individuals in Ontario are reported in that way.

The second is non-nominal reporting whereby the medical officer of health will accept initials and dates of birth rather than full name and address, on the condition that the family doctor will ensure that there is adequate counselling of the infected individual, that there are reasonable efforts made at partner notification and partner counselling and that there's some assessment as to the risk that individual might pose to others. Assuming all those criteria are met, the medical officer of health then can accept only the initials and dates of birth. I believe

about 40% of positive tests in the province are made non-nominally.

Furthermore, there's the provision of anonymous testing, and that's only through designated anonymous testing clinics. In those situations the person doesn't give their name at all. In fact, they are the only one who knows who they are and that they have a positive HIV test. They do of course receive counselling as part of that when they receive their positive result and there are efforts made to encourage them for partner notification.

Clearly there aren't the same public health safeguards with anonymous testing. The tradeoff is that it is thought that it encourages a small group of individuals who otherwise wouldn't get tested at all to come forward for testing. I believe about 10% of our positive HIV tests in Ontario come through the anonymous testing system.

Mr Winninger: Okay. Now let's say that a patient is examined by a physician and the physician does the requisite tests and determines the patient is HIV positive. Who decides? Is it the physician who decides how the testing will be reported, or is it the patient, or is it a combination of both?

Dr Schabas: The way the protocol is supposed to work, the patient is supposed to be informed by the physician before the test is done as to what their options are—that's a position taken by the College of Physicians and Surgeons of Ontario—so that they can go for any

mous testing if they wish or they can ask for non-nominal or they can agree to nominal testing. If the patient chooses non-nominal, the physician is supposed to make it clear to them that that's only allowed, that will only be accepted by the medical officer of health, provided these criteria are met.

Ultimately it's up to the medical officer of health to decide, as things stand right now, what they will or will not accept, although generally speaking there's not conflict with the physician. If the physician assures the medical officer of health that these things have been done, with very rare exceptions that's accepted by the medical officer of health.

The Chair: Thank you, Dr Schabas and Dr Wallace, for all the work you have done in creating the guidelines around emergency health workers' notification.

Dr Schabas: Thank you for your patience.

The Chair: Mr Tilson, you have a motion?

Mr Tilson: I move that the Chair be authorized to report to the House that the following bill be not reported: Bill 89, An Act to amend the Health Protection and Promotion Act.

The Chair: Any discussion? Seeing none, all in favour? Opposed? The motion carries.

This committee is adjourned.

The committee adjourned at 1606.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

O'Connor, Larry (Durham-York ND) for Mr Bisson

Also taking part / Autres participants et participantes:

Ministry of Health:

Schabas, Dr Richard, chief medical officer of health

Wallace, Dr Evelyn, senior medical consultant, STDs/AIDS unit

Clerk / Greffière: Bryce, Donna

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J-86

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ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 29 November 1994

Journal des débats (Hansard)

Mardi 29 novembre 1994

Standing committee on
administration of justice

Comité permanent de
l'administration de la justice

Ontarians with Disabilities Act, 1994

Loi de 1994 sur les Ontariens
qui ont un handicap

Chair: Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Tuesday 29 November 1994

Mardi 29 novembre 1994

The committee met at 1643 in room 228.

ONTARIANS WITH DISABILITIES ACT, 1994

LOI DE 1994 SUR LES ONTARIENS
QUI ONT UN HANDICAP

Consideration of Bill 168, An Act to ensure Equal Access to Post-Secondary Education, Transportation and Other Services and Facilities for Ontarians with Disabilities / Projet de loi 168, Loi garantissant aux Ontariens qui ont un handicap l'égalité d'accès à l'enseignement post-secondaire, aux transports et à d'autres services et installations.

The Chair (Mr Rosario Marchese): I'd like to call the meeting to order. We apologize for running a bit late.

We welcome Minister Elaine Ziemba, who will do a briefing with respect to Bill 168.

The committee decided that before we do anything with respect to Bill 168 we would invite the minister to comment on the bill, and that once we've heard that particular briefing from the minister, we would decide what to do with respect to hearings and so on.

So we welcome you here today, Minister. We haven't decided how much time we're going to need, but we have approximately an hour and 10 minutes. Hopefully, we can do it within the hour. You might give yourself as much time as we need, hopefully leaving 10 or 15 minutes per caucus to ask you questions.

MINISTER RESPONSIBLE FOR
DISABILITY ISSUES

Hon Elaine Ziemba (Minister of Citizenship and Minister Responsible for Human Rights, Disability Issues, Seniors' Issues and Race Relations): Thank you very much to the standing committee members. I want to thank you for giving me the opportunity to present some viewpoints and to bring you up to date on our thinking.

I also want to say that I'm very appreciative of the support I'm receiving not only from my own ministry but also the Ministry of Education and Training as well as the Ministry of Transportation. They are also with me in case you ask some very in-depth, technical questions that I might feel are not quite in my ministry's domain and I would want some expert advice.

I also want to thank Gary Malkowski, my colleague, for bringing this issue before the committee. As a former parliamentary assistant of mine, I know the hard work and dedication he has brought to not only this committee but also all the work that he has done in government. We're very appreciative of that.

Applause.

Hon Ms Ziemba: Why not? Go ahead; clap.

I must also say, just as an aside, that Gary comes to this place, this Legislature, as we call it, with an outstanding record. First of all, he's the first deaf person to have been elected in our jurisdiction, which is quite an accomplishment. Also, having brought that accomplishment to this place, he brought with it a change that we had to make in legislation, which I think has set the tone and has brought about changes that are excellent for the future, and we're pleased that has occurred.

As well, because Gary is in this place and because we can see things at first hand, he has brought disability issues to a different level, an awareness that people with disabilities should be looked at for their abilities or the talents and expertise they bring to any job or to any type of experience, and that we can learn from that experience. That again has changed attitudes, not only in this workplace but in others as well. So he's been a leader for many people in his community.

One last thing: With the changing of attitudes, we're now seeing a change in the way people speak in the Legislature. Sometimes they still have to be corrected, sometimes Gary still has to stand up and remind people of the appropriate terms or phrases that should or should not be said. We welcome that because that again brings us to a much better place in time, and all of us should of course be on the lookout and be aware of these scenarios. But Gary has taken that upon himself, and I think that's commendable.

Just one last comment about the changing place and how we view things in a different world. I look around at all my colleagues, and just say we want to put partisan remarks aside, just for a moment. I think all of us want to think that there will be a point in time in Ontario where we will have a completely barrier-free society, that nobody will be excluded, that people will be included. It's because of not only Gary but the people in the community who have joined us today to share their response to this bill, who have also worked very hard on many different issues, whether it's employment equity, the Advocacy Act, working within the OPS to help for a barrier-free society.

I hope all of the community members, Gary, the colleagues we work with, at some point in time, sooner rather than later—perhaps we can affix a date to that and say it's the year 2000 in which Ontario will truly be a barrier-free society. But that will occur as we get into further debate and as we have more intensive and public involvement and consultation. This bill affords us that opportunity. As I said, the shift in thinking, the commun-

ity that's been responsible for helping us set the policy agenda, all these things, will certainly get us to that agenda we're hoping to create.

We have already seen significant shifts in thinking from the concept of special transportation for persons with disabilities, separate and apart and certainly not equal, to what we now call a "family" of services, which captures the concept that ranges of options related to transportation needs are the answer.

I would also like to recognize the work of the community in its efforts towards income maintenance or social assistance reform. Although more work certainly needs to be done—I think we all recognize that—the community deserves enormous credit for what I see as a shift in thinking in this area that prepares us for the future, and has successfully demonstrated how critical the linkages are between income support and education, training and employment.

We know that the glue that binds all these things together is access and equity strategies: access to services, supports funding and equipment so that persons with disabilities can achieve the greatest possible measure of self-reliance and economic integration.

1650

Often, initiatives which facilitate access and equity for persons with disabilities benefit everyone. We've heard Gary and we've heard members of the committee, when they spoke about employment equity, talking about various barrier removals, that a ramp that benefits a person in a wheelchair can also benefit a young mother with a child in a stroller, can perhaps help a senior who's walking up that ramp, or perhaps even a small child as they run up and their little legs can carry them a little bit faster. We've also talked about how even an electronic door opener can help a person who might have their arms full with groceries or perhaps the delivery person who has a huge amount of things on their trolley that they're trying to bring into a building. So things that facilitate access and help people with disabilities can benefit all people in society and make us truly inclusive.

Voice-activated technologies that were originally developed for persons with disabilities are now marketed more generally. For example, computers can be used to control household lighting, stereos and televisions, security systems. I could go on and on with that list to say again that we are becoming a more inclusive society, that what perhaps started off as being a special need has truly become an area all of us can benefit from.

The private sector is now noticing that these items, formerly thought of as specialty items, are now growing industries, and they're starting to market these industries as such. There's a growing interest in the information technology area to provide more effective and efficient ways of communicating. The community is already at the forefront of this development, working with the private sector to ensure that these new technologies are inclusive.

We met with a group of people who work in the Ontario public service who have also been working on the leading edge of explaining to members of government how we can use that technology and bring that technol-

ogy in a more inclusive way, where as a government we show the leading edge on how we tell companies and help the private sector to understand this technology.

The increased level of public awareness of the issues facing persons with disabilities is in large measure due to the efforts of many members of the community. We have to emphasize that more and more, time and time again, because if we are going to make changes, government can do that—and I've said this in many speeches—and the private sector can go its way as well, but until we truly form a partnership between community members and government and the private sector, those changes are very difficult to make. So the community must be commended for all of their work.

I'm pleased that Bill 168 is providing an opportunity for discussion and debate on the fundamental issue of access for persons with disabilities. In considering Bill 168, it is helpful to look at where we have come from and to review and consider the various statutes, programs and initiatives currently in place which aim to provide access and equity to persons with disabilities in Ontario.

During the Decade of Disabled Persons, which took place between 1982 and 1992 and was proclaimed by the United Nations, Ontario took many important steps to achieve the goals and principles of the UN proclamation on the Decade of Disabled Persons. Gary Malkowski actually represented me in BC with the Ontario contingent that went out to the ending of that decade.

In 1990, this government repositioned the responsibility for persons with disabilities with the Citizenship portfolio, and I became the minister responsible for disability issues along with my other equity portfolios. We moved towards legislative and non-legislative approaches that would create systemic changes to enrich and entrench the rights of persons with disabilities to those supports needed for life in community.

To support our access and equity goals, we restructured the ministry so that disability issues and concerns will be reflected and can be addressed across all ministry programs and field offices. I've often said we had 24 field offices in Ontario, but many did not have information or have any skills needed to address the concerns and the issues that people with disabilities faced.

As well, the ministry has created a dedicated policy group within the policy and planning division which reports directly to the ADM of the division. The disability issues group continues to work closely with other ministries as part of the overall strategy to improve access and equity for persons with disabilities. Sandra Carpenter, as many people in the community know, has worked very, very hard on many of those issues and continues to be the link across government for us.

This government has moved to improve access to the Ontario Human Rights Commission. We have also proclaimed Ontario's own Employment Equity Act and established the Employment Equity Commission. We are also very close to proclamation of the Advocacy Act and establishment of the Advocacy Commission.

Other key initiatives related to persons with disabilities include: the consent to health care services act; long-

term-care redirection; establishment of an OPS policy on accommodation; a fund to provide employment-related supports to Ontario public service employees with disabilities; work on regulations to establish American sign language and langue des signes québécois as languages of instruction in Ontario schools, and I know Gary was very involved in that; the Ontario Training and Adjustment Board; social assistance reform to assist individuals to train for and find employment, including persons with disabilities; and of course funding to improve the accessibility of GO Transit.

I'd like to address some issues under the Ontario Human Rights Code at this point and to briefly talk about the importance of the Ontario Human Rights Code as it relates to achieving equity for persons with disabilities.

The Ontario Human Rights Code guarantees equal treatment and equal access with respect to employment, accommodation, and goods, services and facilities for persons with disabilities.

The protections of the code include prohibitions against both direct and indirect discrimination. This is very important to persons with disabilities, because many of the barriers are hidden, systemic barriers which have had the cumulative effect of denying persons with disabilities the equal right to participate in our society.

In Canada, human rights legislation is recognized in law as having quasi-constitutional status and is interpreted as broadly as possible to ensure full protection of the rights provided. The Ontario Human Rights Code has primacy over all legislation in the province, unless the act specifically states differently.

The code has an inclusive definition of "disability," which ensures protection for persons with a wide range of disabilities. Commission guidelines and the decisions of various boards of inquiry have ensured broad interpretation of the definition.

To increase enforcement of the rights guaranteed by the code, the Ontario Human Rights Commission has been implementing an organizational improvement program to improve its efficiency and effectiveness. This program addresses customer service, and the chief commissioner highlighted this work in her address to the standing committee on the review of government agencies earlier this year.

This program is important for persons with disabilities because it examined ways to improve access to commission services and the sensitive delivery of those services.

The commission continues to administer its priority case-handling criteria, which enable the commission to respond to urgent cases where quick response is necessary to fulfil the purpose of the code. This is an important part of ensuring that the commission responds to the needs of a diverse community, including those persons who are HIV-positive or who have AIDS. The commission is currently in the process of further refining these criteria in response to the input from the HIV/AIDS community to ensure that cases are processed in a very sensitive but quick response for members of that group.

This organizational improvement plan also includes a learning strategy designed to train staff on specific issues

facing person with disabilities. Part of the strategy will include input from the disability community itself on the design and delivery of the program to ensure it is truly responsive to the community's needs. This training is a priority, and a very important priority, for the commission.

Some recent human rights decisions in Ontario have confirmed the right of persons with disabilities to equal access to employment, accommodation, and goods, services and facilities, and I'm just going to highlight three of these particular cases.

1700

The first case is *Elliot v Epp Centres and Peter East*. A board of inquiry found that failure to provide accessible parking in a public shopping mall constituted discrimination under the code. This case highlights the rights of persons with disabilities to have equal access to public areas and the positive duty to eliminate systemic barriers to that access. It also showed that accommodation requirements under the code required more than just superficial alterations not designed specifically for persons with disabilities, and it reaffirmed the principle of the primacy of human rights legislation over other legislative requirements. The principle that the general public has the duty to make life in the community accessible for all Ontarians was affirmed.

The next case was *Julie Ramsay v SWM Investments*.

Mrs Margaret Marland (Mississauga South): Excuse me, Madam Minister. Mr Chair, I'm wondering if one of the minister's staff has a copy of your comments so that we could run off copies now and have it in front of us by the time that you're finished. Usually when a minister presents a briefing there are accompanying copies available and it makes it much more understandable, I think, for the public and the members of the committee.

Hon Ms Ziemba: My staff is here and I'm sure they'll make that available.

Mrs Marland: Thank you very much.

Hon Ms Ziemba: The second case was *Julie Ramsay v SWM Investments*, a settlement negotiated by the Ontario Human Rights Commission which also dealt with accessible parking for persons with disabilities, in this case at an apartment building. This case also acknowledges the responsibility of building owners that spaces are safely maintained, including snow and ice removal.

The next case is *Patricia Barber v Sears Canada Inc*. A board of inquiry affirmed the principle that access to services and facilities requires access with dignity. This includes the nature and appearance of the surroundings in which access is provided, and the time required to gain access.

In this particular case the complainant, a wheelchair user, was required to use a freight elevator to gain access to the second floor of a store. It sometimes required a wait of up to half an hour. The board found in this case that the elevator, which had been subsequently renovated by the respondent, had not provided for dignified access and violated the complainant's right to equal treatment with respect to services.

Now I'd like to just touch very, very briefly on the Advocacy Act. The Advocacy Act initiative is another example of a comprehensive process of public debate. This act, which is expected to be proclaimed in early 1995, will undoubtedly stand as one of the most important initiatives undertaken for persons with disabilities, and again Ontario has proven to be a leader.

If I might just say, and this isn't in my notes, but I know that there are couple of commissioners from the Advocacy Act here with us today and I know that they're working very hard on bringing the act into this final fruition of proclamation and acknowledge their hard work and their dedication.

This is not only an example of extensive consultation with a wide range of both individuals and organizations that started in fact with previous governments, but it also represents a move towards meaningful community involvement in the selection of commissioners that will govern the commission charged with administration of the act. It also represents cooperation between the Ministry of Citizenship and the ministries of Health and the Attorney General.

The act, which is the centrepiece of a legislative package that includes the Substitute Decisions Act and Consent to Treatment Act, is rooted in the idea that personal autonomy, the freedom to make choices and decisions, is a fundamental human right.

The Advocacy Act is designed to build bridges to independence for persons with disabilities and the frail elderly who have difficulty expressing or acting on their wishes and getting their rights and choices respected, and for those who have no one else to speak on their behalf, whether it's family or friends.

Of course, we also have the Employment Equity Act, which was proclaimed in September 1994. With this proclamation came the establishment of a commission to support the administration of the act. This act covers nearly 17,000 employers in Ontario and about 75% of Ontario employees.

The act is specifically designed to assist employers in the identification and removal of barriers to employment for the designated groups and to improve the representation of the designated groups in Ontario's active workforce.

The act has significant implications for persons with disabilities, one of the four designated groups. First, employers will be required to identify and remove barriers in their workplaces. This includes developing plans regarding not only physical access to the premises but access to fair distribution across job positions within an organization as well.

Employment equity plans must set out positive measures for the recruitment, hiring, treatment, retention and promotion of the designated groups. These are measures designed specifically for the designated groups to assist them in achieving fair representation in the workplace. This is important for persons with disabilities because it recognizes and responds to the unique employment barriers faced by that group.

In addition, plans must include supportive measures

designed to assist the designated groups and other employees in the workplace and measures to accommodate members of the designated groups. Incorporating the duty to accommodate into the act is vital for persons with disabilities because it reaffirms their rights of access to positions they can perform if accommodation is available and provided.

The accommodation requirements of the Employment Equity Act are proactive. Employers are required to review their physical workplace and their existing policies and practices to ensure that they are free of direct and systemic barriers to the employment of persons with disabilities. This review must take place whether or not there are persons with disabilities currently in the workplace.

In addition, the act requires employers to have policies in place which will help them respond to individual requests for employment accommodation by persons with disabilities who are currently in the workplace or who enter in the future. This reinforces the duty to accommodate persons with disabilities already provided for in the Ontario Human Rights Code and ties those accommodation requirements directly to the employment.

The Employment Equity Act also requires employers to set specific numerical goals for each of the designated groups including persons with disabilities. This goal-setting process is important in two respects. First, it ensures that the opportunity for access is followed up by actual entrance into the workplace and, second, the requirement to set numerical goals for each occupational group in the workplace will ensure that persons with disabilities are not slotted into low-level, low-paying positions in the organization.

To assist in the implementation of the Employment Equity Act, the government has established the Employment Equity Commission. Of course, a significant role of that commission will be providing educational programs targeted at employers, trade unions, employees and the general public about employment equity and the designated groups.

I think this is extremely important for people with disabilities, because the educational component will certainly lift again the attitudinal change that we've all so desired and break down those barriers that exist. The public education, we hope, will also dispel the myths that surround the employment of persons with disabilities.

Another component of public education will be the creation of linkage with the disability community to provide advice to both the commission and the workplace parties in the implementation of employment equity.

Together, these requirements set the stage for the entrance and advancement of persons with disabilities throughout the workforce.

This act was developed with extensive consultation including employers, organized labour and equity-seeking groups. It was an inclusive, comprehensive process designed to achieve a fair and effective act.

The Employment Equity Act, the establishment of the Employment Equity Commission and the Employment Equity Tribunal will improve equity in employment for

persons with disabilities. The passage of the Employment Equity Act is a very significant milestone in the goal of social and economic participation of persons with disabilities in the life of the province.

However, a range of other supportive measures will also be required to ensure that the act will effectively assist all persons with disabilities. As Minister of Citizenship, I realize that persons with disabilities face unique and significant disadvantages in employment, particularly persons with severe disabilities. Only 32.8% of this group are employed.

1710

Accordingly, I asked the Employment Equity Commissioner, Juanita Westmoreland-Traoré, and the chair of the Ontario Advisory Council on Disability Issues, Dr Shirley Van Hoof, to co-chair a Working Group on the Employment of Persons with Severe Disabilities. The task of this group was to examine and recommend initiatives that are directed to enhancing the employability and the employment of the population. The working group included representatives from the private and public sectors, disability organizations and service providers.

The ministry is in the process of coordinating the government's response to the recommendations and we hope to have, and need, strategic and systemic approaches if the status of persons with disabilities is to truly improve.

As well, my ministry has engaged in systemic and strategic cross-ministry initiatives to improve access for people with learning disabilities. We will also develop an implementation plan with the Ministry of Education and Training and Ministry of Community and Social Services in response to the report on the status of oral interpreting services in Ontario.

I would also like to speak on what my colleagues in other ministries have accomplished, in particular their initiatives to improve access for persons with disabilities in Education and Training, Transportation and Health.

The first area I'd like to respond to is Education and Training. A range of new initiatives build on the Ministry of Education and Training's special education policies to accelerate the pace of integration of exceptional pupils into regular classrooms.

The Ministry of Education and Training remains committed to the principle that the integration of exceptional pupils should be the normal practice in Ontario when such a placement meets the pupil's needs and is in accordance with parental wishes. A range of options, including placement in a special class or provincial or demonstration school, will continue to be available for pupils whose needs cannot be met within the regular classroom.

The Ministry of Education and Training has the authority to develop a regulation which will establish American sign language and langue des signes québécois as official languages of instruction in Ontario schools. The ministry is currently consulting with stakeholders on the draft regulation, which would provide the sign language version of instruction in the two official languages of Canada, an important equity gain for deaf

persons. If I might just say as an aside, this really has come about through Gary Malkowski's work and his intervention at the very beginning of our mandate. We have him to congratulate for that.

Mr Tim Murphy (St George-St David): On a point of order, Mr Chair: I'm sorry to interrupt, and I know you have quite an extensive presentation. Maybe it's my fault, but I'm just a little confused.

I've got a copy of the letter that the clerk wrote on behalf of the committee to the minister and her staff in terms of requesting what it was we were wanting the ministry to do for us, because I just wanted to make sure that I had it right. My understanding of the invitation was to ask the minister and any staff that she thought appropriate to bring along to address us on her position and that of other ministries on the bill as well as an assessment of the bill's provisions and its impact on those ministries, on services.

My problem is what we are getting is not that. In fact I'm not sure I've heard Bill 168 mentioned yet, maybe once. So I'm a little confused as to how this relates to what we want to hear and what we in fact asked for, which was an assessment by government, and people who frankly are experienced in this and know the legal provisions, as to what the bill was.

Interjection.

Mr Murphy: Yes. I've had the opportunity now of seeing the notes and looked through and I don't see that assessment, for our benefit, of what the bill does and what its impacts are. I'm wondering if you could help me in terms of directing the minister and the staff to address what it is that was requested by us, as a committee, of the minister and her supporting civil servants.

The Chair: I'm not sure whether I can be of assistance to you with the questions you raise and would simply ask the minister to either continue with what she has or if she wanted to focus a little more specifically on the areas that Mr Murphy was talking about. We know that you've prepared this text with respect to this and how this all might interconnect, but I'm not sure we can direct you one way or the other in terms of how to encourage you to focus on the bill.

Mrs Marland: Mr Chair, if I may make a supplementary comment, obviously I'm not a regular member of this committee and I'm here because this is within my portfolio for our party, and knowing why the minister was invited is the reason that I came. Frankly, I didn't come to hear a sales pitch on all the programs that the government has or hasn't been involved with at the same time that they've cut all the funding from the area municipalities to deliver those programs.

When we get through with another 12 pages, I think we've still got to go, or 21 pages still to go, I'm concerned about how much time we will have to have the discussions as a committee that are terribly important today. We need to be able to ask questions and we need to order the business of the committee for two remaining days. Since we came back five weeks late into this session, we're all very compressed for time right now.

The Chair: I appreciate your comment, Mrs Marland,

and I have Mr Chiarelli as well. Madam Minister, if I could urge you perhaps to synthesize the information a little because I think we have another eight or nine pages to go through, which would take at least another 10 or 15 minutes, in which case it may not leave us much time for discussion. If you could that would be helpful, so we could leave approximately 10 minutes for the caucus members—that would be useful—but if we get ongoing discussions from the members, we're going to chew up a lot of time in that regard.

Mrs Dianne Cunningham (London North): But I just—

The Chair: If you want to comment, then I'll have to take Mr Chiarelli. I have Mr Chiarelli wanting to speak.

Mr Robert Chiarelli (Ottawa West): I skimmed through the notes and there's virtually no comment whatsoever on Bill 168 other than the fact that she welcomes the debate. I just wonder if we can get to questioning the minister without wasting further time.

Mrs Cunningham: I don't think 10 minutes per caucus is acceptable. I guess my question, through you to the minister, would be: Is she going to be available during further committee time, because most of us have had a lot of time to look at this bill and its implications. We've asked all of the colleges and universities what they feel would be necessary to implement this bill, and I have certainly a lot of information that I would like to question the minister on as the critic for that particular area. It's up to her with regard to timing, but you can see what our problems are.

The Chair: I would say before the minister comments, it's up to the committee as well to decide whether or not we want and need more time. If that were the case, then we could allow the minister to finish her presentation in the way that she feels she needs to, and if she were available to come back Monday we could then continue with questions on this. Is that acceptable to the committee and is that all right with you, Minister?

Hon Ms Ziemba: Could I just respond? First of all, I was asked in the letter to come and to make a deputation to the standing committee on what I would perceive as the requirements under Bill 168, but to say to you that you can't discuss any bill unless you look at where we've been and where we're coming from and why all the different pieces fit together. Not one bill is going to amend all of the past wrongs, and we have many different things that have to come together. This is one of the reasons why I was bringing together my ideas and thoughts.

But I also want to say very clearly that I would welcome hearing some of the comments that my colleague has addressed with the colleges and universities. The debate has to happen, the public debate has to occur. There has to be an opportunity for people to express themselves and to give that viewpoint. I think questioning me is wonderful, but I think also talking to other people is very important as well, if I might say.

The Chair: Madam Minister, if I may, the comments that were being made here would suggest that we might need a little more time, so what I was recommending is,

does the committee feel we need more time? And then we'd ask the minister if she was available to come back Monday in order to continue with the questions you would have of her.

Mrs Marland: I think it's important to clarify what the request was, and the request was—in part of this letter it says, "The committee is interested in the position you and other ministers are taking on the bill as well as the assessment and impact of the bill."

I was in another committee from 3:30 until I came here, so I don't know, since you've been going for an hour and a half, whether you've actually put forth your—

Mrs Cunningham: No, we started at 4:30.

Mrs Marland: Oh, you only came at 4:30, so you've been going for 45 minutes since 4:30.

The Chair: We didn't begin on time, Mrs Marland. We were scheduled for 4:30, but we began at a quarter to 5 because members weren't here.

1720

Mrs Marland: Minister, if these 30 pages of presentation don't answer the reason you were asked to come this afternoon, why don't we just move to your conclusion page where I notice you finally say that you're pleased with the introduction of the bill.

The Chair: I think we're complicating it a little here. Some of you feel you need more time to be able to ask questions of the minister. We're close to 5:30 and we may not be able to do that within the time that remains. I'm asking the committee, do you wish to continue with this on Monday? We may need that time. If so, we then ask the minister whether she's available to continue with us on Monday. That's the direction I seek from you.

Mrs Cunningham: Or we can stop now and start asking questions; one or the other.

The Chair: We could, although that leaves the minister with an uncompleted presentation.

Mr Murphy: We can read it.

Mrs Cunningham: We'll read it into the record.

Mr David Winninger (London South): If the minister were available next Monday to continue, that would be one thing. At this stage, we don't know that. It may be that she needs to complete her presentation today.

I would also submit that if we are continuing on Monday, we instruct the clerk to arrange a list of prospective deputants who can pick up where the minister leaves off, and that we continue that discussion of this very important bill—and I think the number of people here attests to its importance—on Tuesday as well.

Mr Chiarelli: I wonder if I can have Mr Malkowski's attention for a minute. As we know, next week will be the last week before the break, and it may be the last week before the election, so there may be no opportunity whatsoever to move forward with this legislation. I would like to get some explanation or background from the sponsor of the bill of whether he has any expectation that this bill will be passed into law next week or before the Christmas break. If that's the case, I think we should get to questioning the minister and put the process into the context of the emergency time problem we have with

respect to getting this bill through the Legislature.

If indeed the intention is, as I see from the minister's last page, that we have a broad-based debate on this issue and that the process take the normal course, that means it will be quite some time before this bill will be able to pass into law. I think it's important that the sponsor of the bill please clearly indicate to the committee and to the Legislature if he expects to be able to have the bill passed by the end of next week. I think that puts it in context for us and we'll know how much luxury of time we have with the minister.

The Chair: Mr Malkowski, I'm not sure it's a fair question to ask you, but you may respond if you want to.

Mr Gary Malkowski (York East): I think it's a fair question because the opposition members want to know what the intention is. But it looks like the intention of the opposition members is to stall so that time runs out and we can't finish this.

The minister needs to finish the presentation in the time left so that the members who are here in the committee can hear it. I feel that playing games is not fair and we should allow the minister to finish her presentation. I think that would be fair. There are many disabled in the audience who want to hear the presentation and now you are delaying all this, and that's not acceptable to the people who came to hear the committee today.

The Chair: I have three people on the speakers' list. The problem we have is that we're now going to take all of our time debating each other about what we should do. I was proposing that the committee decide today whether we should allow the minister to continue and finish it off. Then we'll need time for the members to ask her questions, so presumably that will get us into Monday. I would prefer we move in that direction than have the debate we're engaging in.

Mrs Cunningham: Mr Chair, very clearly, we can't make up our minds unless we know the minister is going to be here Monday. My point was that if she's not going to be here Monday, let's ask the questions which we had prepared to ask the minister.

The Chair: Madam Minister, can I ask you, are you available to come back Monday?

Hon Ms Ziemba: Unfortunately, I don't have my schedule in front of me. I didn't even bring my briefcase. I could try to accommodate that; I did that today. I had to leave another meeting I was in out in the west end. That's why the meeting started late, Margaret, I'm sorry—just the traffic. We thought we'd be here at 4:30. And I'd made this previous commitment to those people and left them sort of in the lurch, halfway through my speech—but anyway, here I am.

The Chair: I'll go through my list so we can hear what suggestions some of you have. I've got Ms Haeck, Mrs Marland, Mr Murphy and Mr Winninger.

Ms Christel Haeck (St Catharines-Brock): I personally had hoped we could allow the minister to conclude her remarks. There are not that many pages left. What she does, from my own reading and scanning of these materials, is to lay a foundation on which obviously the other topics for conversation are laid. You cannot

talk, as you see in some of these bullet points, about having accessibility in post-secondary education without taking a look at some of the other provisions. I'm looking at the bottom of page 12. The minister is giving us an overview of existing situations in the various areas that Bill 168 addresses, and I think that should be concluded. That would leave a few minutes for us as members to make comments and questions to her.

Likewise, it is my belief that the intention was to hold some hearings next week, and I fully support getting other deputants in so we can hear a range of views on this bill. I think it's important to move forward.

Mrs Marland: Mr Chairman, I think Ms Haeck's final comments predetermine the business of this committee. It's my understanding that this committee was to order its business based on what it learned today.

There are two bills before this committee. One bill has been before this committee since April. My contention is that if the government were interested in Mr Malkowski's bill, it wouldn't have come back five weeks late. We could have got this bill through a public hearing process and dealt with it.

Mr Gilles Bisson (Cochrane South): Margaret, you are being very negative.

Mrs Marland: I'm just responding to the fact that Mr Malkowski has accused us of delaying this bill. I am simply saying, through you, Mr Chairman, that this bill has been delayed by the government, which chose to come back five weeks late. We lost a week out of the session for the Remembrance Day week and we lost five weeks before that. There were six weeks in which this bill could have been all finished if the government were supporting it.

But I really want to ask you, Mr Chair, if we could go to the minister's conclusion on page 30. In this conclusion, she talks about the fact that she is interested in hearing what people have to say, she talks about it being part of their consultation and policy process "before comprehensive legislation has been achieved." It says "comprehensive legislative"; I think it's a typo.

What I think you're saying at the end is that you don't support the bill. If that's what you're saying, for the sake of all the people who are here, who are being given this bill of goods, we had better get it out on the table and be very honest instead of using people. Frankly, I'm a little concerned about people being used. Why don't we let the minister clarify—

Mr Bisson: On a point of order, Mr Chairman: The member well knows that you're not able to impute motive with regard to a person's intentions about how he or she feels about a bill. Would you mind retracting that statement, please.

Mr Chiarelli: You should ask Mr Malkowski to retract his, when he imputed motive to us for asking questions.

Mrs Marland: I think we should ask the minister whether she supports the bill, and then we can stop all the gamesmanship.

1730

The Chair: What I'm noticing is that as we do that,

as we get more speakers, it'll degenerate even further. If we were to deal with your question, Mrs Marland, I'm not sure that would conclude it or that it would give you, all of you, the time to ask your questions. I'm still looking for direction from you in terms of the way to proceed. How much more time do you think you need to deal with this matter?

Mrs Marland: If I can answer on my own behalf, I don't need the minister to complete her comments but I do need to be able to ask the minister questions. If we've got half an hour left and we go for 10 minutes each today, that is a beginning. But the very first question I have to ask the minister is, does she support this bill?

Mr Murphy: The reason I raised the issue initially was so we could get to the two key issues: whether the government supports the bill and intends to proceed, and secondly, some detailed discussion of the provisions of the bill, what they mean, what impact they have, the assessment of what that will be on colleges and universities, education and other fields, perhaps a sense of the cost of what accommodations can be made in terms of legislation in each of those fields. Those, it strikes me, are the key issues.

In truth, clearly we need the minister here for a response to the "Does the government support it?" question, and probably for some answers on overarching policy aspects of the bill. In terms of the details of it, once you get past those you probably don't need the minister here.

The reason I raised it was that I wanted to cut straight to the last page. What I'd ask, Mr Chair, through you to the minister, is whether we could do that now, go straight to questions on those issues and attempt, if we can, to get the minister back on Monday; if not, we'll just have to try and work something else out. My request, through you, Mr Chair, is to go to questions now.

The Chair: I have two other speakers on the list.

Mr Murphy: It might resolve the speakers problem if you asked the question.

The Chair: If everyone is in agreement, we could proceed with the question immediately.

Mr Murphy: It's up to the minister.

The Chair: No. I have two other speakers, is the point I was making. If they were all in agreement to proceed quickly, we could. Otherwise, I was going to complete the list. I have Mr Winninger and Mr Malkowski—bearing in mind what Mr Murphy has raised as a question.

Mr Winninger: I would like to put a motion to the committee as follows: that we continue to sit today to hear the minister until the vote, that we reconvene on Monday and Tuesday and allow the first half-hour on Monday, or an hour if the opposition requires it, and instruct the clerk to schedule a list of deputants, who are very eager, I know, to speak to this bill, for the remainder of Monday and next Tuesday.

Mrs Cunningham: Can you ask the minister to be here for Monday?

Mr Winninger: If the minister can't be here, perhaps the deputy or a senior official can be.

Mrs Cunningham: If you can't get the minister to be here, why don't you just say that?

Mr Winninger: We don't know what her schedule is. But the intent of the motion is that you have an opportunity to address the ministry concerned.

The Chair: Mr Winninger has moved a motion. Given that we have a motion before us, I think we will now move that for discussion and debate.

Mrs Marland: It's very difficult to debate this motion without having it in front of us. I think we're wasting time, frankly.

The Chair: Ms Marland, this motion is before us. If you like, we'll ask the mover to write it out and we'll distribute it.

Mrs Marland: You're saying you're deciding to have hearings. You haven't even decided the order of the business of the committee, which I understood was to be decided this afternoon at the subcommittee.

The Chair: Ms Marland, rather than having cross-debate, Mr Winninger's moved a motion, and I'll ask him to write it out so we can circulate it. It's properly before us, so I'm asking the members here to debate that particular motion.

Mr Chiarelli: Can I suggest that the mover of the motion consider deferring that to the subcommittee, which is supposed to deal with that type of issue. And the meeting has been scheduled.

Mr Winninger: I would prefer not to defer the motion.

The Chair: Then please speak to the motion that is before us. Would you like the member to repeat the motion? Okay. Mr Winninger, would you repeat the motion, please.

Mr Winninger: I move that this committee continue until the vote today, and then reconvene on Monday to hear further from the minister or ministry for the first half-hour, and to instruct the clerk to contact the deputants who wish to present before the committee and to schedule deputants Monday and continuing Tuesday of next week to speak to Bill 168.

The Chair: Let me ask the committee members, would you like that to be written so you can see it, or is that clear enough? Okay. People will debate it, but can I ask you, Mr Winninger, to write it out as we're doing that so we can circulate it?

Mr Murphy: I haven't been a member that long, 18 months or so, but for the period of time I've been involved, certainly it's been the practice in a public hearing process that we have usually advertised and developed a list on the basis of advertisement. I'm not sure of the point of this motion at this time, because what we were trying to get at is what the government's position on the bill is. I'd like to hear that first.

I'm certain that debate on the provisions of the bill could be and would be very useful to all members. I'd like to know what the minister's position and the government's position on the bill is, whether it'll proceed. I think there is virtue in hearing from the people in this room, from affected groups, colleges, universities, all the

various—I can't remember—Natural Resources. There are others specifically mentioned in the bill, but I'm sure there are others still, and I think they're referred to indirectly in the minister's comments. The point is that all those affected parties historically have been given an opportunity to be made aware of the fact of hearings, an advertisement, those kind of details. I don't see anything dealing with that kind of problem in this motion.

That of course is why historically we've dealt with, essentially, ordering-of-business kind of motions in subcommittee, so we're fair to the clerk in order to allow her sufficient time to do those kind of things and put that in place. So I have a bit of a problem with this motion as worded.

Frankly, I'd like to hear from the ministry first. Obviously, the importance of hearing detailed considerations of the bill both from Ontarians with disabilities and groups that would have to accommodate according to the provisions of the legislation would obviously depend on whether the government's proceeding. If the government's proceeding, we need to make sure we've heard from all affected parties. If the government is doing this merely as a public relations exercise, it's unfortunate, and I think it's important for us to know that before we deal with this kind of motion.

The Chair: I wonder if I can ask Ms Bryce to comment on the question.

Clerk of the Committee (Ms Donna Bryce): If the committee did decide today that it wanted to go ahead with Bill 168, one of the first things we would have to do is sit down and say, "How do you want to proceed with it?" In terms of inviting deputants to speak on Monday or Tuesday, the subcommittee or the committee would have to decide which ones, how they want to go about notifying people, that kind of thing.

I can say that I do have a list—I don't know the number—of names of people who have called my office, which could be used by the committee members as a starting point in inviting people. But it would be certainly something for the subcommittee to discuss.

Mr Daniel Waters (Muskoka-Georgian Bay): My preference is that the minister go ahead and finish her comments. I just took a quick glance through when all of this started 25 minutes ago and I come up, on page 18, with something that says \$18.6 million in accessibility funding to 650 communities. I know that some of my communities in my small, rural towns received some of those dollars, and it was vital to them.

I also know that right now I have at least one community, and I'll name one, that being Waubaushene, where the only building with a hall for community functions is a Legion, and the hall is upstairs. I had blind people with canes trying to navigate stairs. Last year I had a priest collapse with a stroke up there and we had to manhandle this person down. Had you allowed the minister to go on, I would have brought these things forward in my questioning of the minister instead of doing it now.

1740

There's probably more in here that I haven't picked up

on because, like Ms Marland, I too am in here today on one day only and I'm not up to speed with all the background. I'm looking at the minister's speech and finding a number of things in here that I want to ask her questions on, but I need—

Mrs Marland: So you need more than half an hour on Monday.

Mr Waters: I would have liked to see her finish her speech. I would like to see us move on with this.

The Chair: I've got Ms Cunningham. Remember, we have a motion before us.

Mrs Cunningham: I know. I'm talking about process here, and I do have some sympathy for individuals who didn't know the intent of the legislation, but I have to tell you that we've had the bill in our hands since May 31, 1994, so my criticism here would be to the ministry itself, if indeed this was the only planned time.

So I have two things to say: First of all, at any time when we want the public to be involved, I think it's only fair that we give them due notice and that we schedule their appearances in a fair manner. If Mr Waters is concerned about accessibility, he can think about this building and this committee room right now, as far as I'm concerned. We should do it in a different place, where people can get in here and listen.

The third piece I'd like to say is, for the record, Mr Chair, what I expected to hear today was the time lines for implementation for this legislation; how the ministry felt that could take place; what ministries or level of government would be responsible for the costs—I'm going through the issue as I had to do in my private bill.

Ms Haeck: Point of order, Mr Chair: I was under the impression we had a motion on the floor, a motion to which we would be required to vote and the kinds of questions that Ms Cunningham is placing, however much I might wish to get the same answers, the fact is that it's not to the motion and I think we should then conclude the vote on that motion—

The Chair: Ms Haeck, I understand the point of order.

Ms Haeck: —and then she can actually carry on with whatever questions she would like to make.

Mrs Cunningham: Mr Chair, in fairness, I—

The Chair: Please speak to the motion.

Mrs Cunningham: All right, I'm speaking to the work of the subcommittee, which I was asked to set time aside for, which is part of this motion, because it's process.

The Chair: True, but it doesn't speak about a subcommittee, this particular motion.

Mrs Cunningham: Well, I'm sorry, but it talks about the process and I want everybody here to know that we had planned at 6 o'clock to talk about who would come to speak to the committee, what the time frame would be, what the subject matter would be—

Mr Winninger: We still can.

Mrs Cunningham: I don't think so. I think your motion just decides to go ahead. I would like a clarification.

Mrs Marland: You've already put in the motion "half an hour with the minister."

Mrs Cunningham: I'm going to get my remarks on the record anyway, because I don't like what's happening here today at all.

I would like to speak to the motion, Mr Chair. The motion talks about, I think, how we're going to proceed and I would like to talk about how we should proceed and I'm speaking against the motion in making my remarks and I expect for you to allow me to do that, because I am talking to process.

I expected the minister and I would expect her on Monday, or her ministry, to be talking about the requirements that would be very difficult to achieve and how she would recommend that they be achieved. Otherwise, the removal of all—

Ms Haeck: Mr Chair, point of order, please: I'm sorry, I may not be a lawyer, I am only a librarian before I came here, but what you're putting forward has nothing to do with the motion at hand. I would suggest, Ms Cunningham, that while I may not be the Chair, I am definitely somewhat concerned that while you're giving direction to the minister, you are not really speaking to the spirit of the motion, and the spirit of the motion should be voted on so that you can move to the kind of direction that you personally would like to make.

The Chair: If I can, Ms Haeck, that is not entirely in order. Your previous point was: As long as the member links it, however tangentially, people can speak to it. Ms Cunningham, if you can—

Ms Haeck: Very tenuously—a mere filament of thread.

The Chair: Ms Haeck, please. Ms Cunningham, please finish your remarks.

Mrs Cunningham: Mr Chair, I don't want to be perceived, as Mr Malkowski has already pointed out, as stalling things. But I think that if we're coming to another meeting, we ought to be clear on what we expect, and that's what this motion is all about. So if the minister doesn't mind listening to me, I'd like to tell her what I'd like to hear.

I'd like to know about the requirements that are very difficult to achieve in the bill—and these notes were made ahead of time so I could tell her this today. The removal of all barriers in facilities and systems, and I'd like the minister to speak to the problems we have with historical buildings and I think that that should be made clear in the bill itself so there's no expectation there. I'd just like to conclude with three parts, and that is the cost of implementation with regard to three areas: The physical access, which is begun by many of the universities but we do know that they have told us, and I found this out and I think you'd be interested, that the cost will be in the \$5- to \$15-million range per institution because they were all asked to put this together, so I think that the public should know it's difficult and is there a time frame involved here. Second is the interpretation services, which I know Mr Malkowski's very concerned about, and so are the universities because we don't have the money for them. And the third one is attendant care, which I

know a lot about in regard to my own family, and we've had a lot of difficulties in getting that kind of support for the students. Those are the kinds of problems and challenges that I would like the government to speak to, because they all impact on whether or not this legislation can be moved forward.

Mr Chiarelli: I'm looking at the minister's own remarks and in a way she's addressing the motion that's on the floor. She said she looks "forward to hearing a full range of comments from those individuals, organizations and sectors affected by the issues addressed in Bill 168," and we all know what that entails in a committee hearing. We know that it entails notifying people who may be interested: people from the public, organizations, groups, associations, but that takes time. So given the fact that we only have one week left in the Legislature, and given the fact that perhaps the Legislature will not reconvene again, I think it's very, very important, particularly for the people who are assembled here today and people who are interested in this particular motion, to know whether it's a process of education and debate or whether there is a legitimate desire and interest on the part of the government and on the part of the sponsor of the bill to have this legislation passed as quickly as possible, because it is my impression that this bill cannot be passed before the end of next week. And if I'm wrong in that assessment, I would like both the government and the sponsor of the bill to say what their intention is in terms of advancing this particular bill.

If we want to have a debate and we want people to become aware of legislation like this, I think that's very laudable. If, on the other hand, there is any kind of an inclination given by the sponsor of the bill or the government that this bill is likely to be passed in the next week or two before the Legislature recesses, then I think that is not being straightforward with the people who are interested in this legislation.

But I think it's very important that the minister state whether she believes that this bill can be passed before the Christmas recess. It's very important that the sponsor of this bill tell the people who are interested in this legislation whether he thinks the process will accommodate quick passage or whether it will have to wait till a spring session, if indeed we have a spring session.

Interjection.

The Chair: Mr Malkowski is on the list. You're after.

Mr Malkowski: I think, because time is running out, that I would move for a vote on the motion.

Mr Chiarelli: Thanks for the answer.

The Chair: All those in favour of closure? Opposed? Okay, so that carries. Okay. We're on the original motion then. All in favour—

Mrs Marland: You're going to cut off the debate. Thanks very much.

Interjection.

The Chair: You can't.

All in favour of the motion? Opposed?

Mrs Marland: A recorded vote.

The Chair: On a recorded vote?

Mr Chiarelli: Can I have the floor?

The Chair: You can't. We're going to vote.

Mr Chiarelli: Well, the vote is finished.

The Chair: No, we're just having a recorded vote on this motion. All in favour?

Ayes

Bisson, Haeck, Malkowski, Waters, Wilson, Winninger.

The Chair: Opposed?

Nays

Chiarelli, Cunningham, Marland, Murphy.

The Chair: So that motion carries.

Mr Bisson: No discussion on it?

The Chair: Yes, the motion has passed and that carries. We could still—yes, Mr Chiarelli?

Mr Chiarelli: I'd like—

Mrs Marland: Mr Chair, was I on the list?

The Chair: You were on the old list. We're now on to a new discussion here. So Mr Chiarelli and then Mrs Marland.

1750

Mr Chiarelli: I would like to ask the minister and Mr Malkowski the same question that I just asked that was not answered.

The Chair: Mr Malkowski, would you like to—Madam Minister, would you like to respond to the question?

Hon Ms Ziemba: I'll let the mover speak first and then I'd like to speak because I'd like to say a few things. But I think it's only appropriate that the mover of the bill speak first.

Mr Malkowski: In response to Mr Chiarelli, I have expectations that the government supports this private member's bill, but first we want to permit the disabled community to come and present and give their feedback on the legislation. I think this would lead to a government discussion paper or perhaps introduction of a government bill, or even this bill going for third reading. But I feel that it's important to have the opportunity to get feedback from the disabled organizations.

Hon Ms Ziemba: If I might respond, and I've been sitting here very quietly listening to 40 minutes where we could have perhaps finished my comments and gone into a question-and-answer time frame, which is an unfortunate experience, I think. But I want to say that we are very supportive of Mr Malkowski's intentions in Bill 168. We do need to have input from various members of the community. It's very important. You can see there are people here who are very, very interested in this bill and who want to have an opportunity to speak to it. I'm sure there are others who want to as well.

If out of that debate comes a resolution or a deliberation that we enter into, as Mr Malkowski said, either a paper for discussion so we can have further work or if we go to third reading, or if we have a government bill, but we have to work on this.

I think it's important, as I stated in my very, very beginning remarks, that we all should be working towards the time when we have a very barrier-free society in

Ontario. That won't happen until we have bills like Bill 168 before us and we can enter into a debate, a whole-some debate, and where we can also have good deliberation. I welcome that opportunity and I'm pleased the motion carried today.

Mrs Marland: Mr Chairman, what has just transpired is exactly what I thought would happen. I think the worst thing that government can do is use people, and the people in this room are being used by this government.

When you now tell us that—

Interjections.

Mrs Marland: I didn't interrupt anybody else and I would appreciate having the floor.

When you now tell us, Madam Minister, that you have expectations, that you're supportive of the intentions of this bill but you're not saying you're supportive of the bill, when Mr Malkowski says himself that it may become a government discussion paper and you say it may become a government bill, I simply say that there isn't a person in this room who isn't interested in the subject of this bill, and the last thing the disabled community of Ontario needs is another government discussion paper. I'm sorry. We have enough reports gathering dust in this province today. What we need in this province, Madam Minister, and I direct this totally to you as the minister, is less study and more action.

Furthermore, in this bill, where the direction is to slough off to the municipalities different responsibilities, those very municipalities for whom you have cut back the transfer payments make the implementation impossible. I think, in fairness to Mr Malkowski, it's outrageous that this government—

Interjection.

Mrs Marland: Excuse me, Mr Chair. I would appreciate it if Mr Bisson would show some courtesy and not interrupt.

Mr Malkowski has been strung along since May 31 with this bill. For six months he's been strung along, thinking—because he and I did have a brief discussion of this bill in Cornwall when we were on another committee—and hoping, I am sure, that the government was going to support his bill and he was going to get some answers. But what you were saying in your summary today is where it's all at. You said in the printed copy that we have, and I want to read this in the record, "It is critically important"—

Interjection.

Mrs Marland: Excuse me.

Hon Ms Ziemba: Excuse me, on a point of order.

Mrs Marland: I have the floor.

Hon Ms Ziemba: Don't you think that I should be able to read my own statement into the record rather than have somebody else read it in?

The Chair: You're not a member of the committee so it's hard to move a point. Ms Marland, please complete your remarks so that we can move on to the next piece.

Mrs Marland: The minister says, "It is"—

Interjection.

The Chair: Hold on, please.

Mrs Marland: You see, they don't want me to say this publicly.

The Chair: Ms Marland, hold on.

Interjection.

The Chair: Mr Bisson, if you—

Mr Bisson: Every time we come to committee, it's to listen to Margaret.

The Chair: In committee, they can speak as long as they want, and we're urging people to tone it down.

Interjection.

The Chair: Mr Bisson.

Did you have a point of order? Hold on, Ms Marland. A point of order.

Mr Winner: I find it absolutely fascinating that the minister could be interrupted by the member speaking now earlier and she objects to being interrupted.

The Chair: She had the floor. Mr Winner, I'm sorry, she had the floor. Ms Marland, please complete your remarks.

Mr Winner: Everyone knows the—

The Chair: Mr Winner, she had the floor, please.

Mrs Marland: Mr Chair, I would say to Mr Winner, I find it absolutely amazing that the government wants to cut off the opposition speaking.

The Chair: Mrs Marland, please complete—

Mr Bisson: We listen to you day in and day out—

Mrs Marland: The minister's printed comments say, "It is critically important that a thorough consultation"—

Mr Bisson: —and we never make an objection.

The Chair: Mr Bisson, it's not going to help for you to do that. It won't help.

Mr Bisson: I just figure I'd get my word in too.

Mrs Marland: The minister's printed speaking notes for today say, "It is critically important that a thorough consultation and policy process occur before comprehensive legislation is achieved."

Mr Bisson: Mike Harris is going to cut the transfers by 30%—

Mrs Marland: So I want everybody in this room to know that this government has no—

Mr Bisson: —and pontificating in the way you are.

The Chair: Mr Bisson.

Mrs Marland: I have the floor.

Mr Bisson: If you're going to come in and you're going to start pontificating the way you are, I really take exception.

Mrs Marland: Will you tell him he's out of order, Mr Chair.

The Chair: Mr Bisson, you're not helping us.

Interjections.

Mrs Marland: Mr Chair, I think it's very important for every person in this room—

The Chair: We don't have much time. Please complete the remark.

Mrs Marland: —to understand what is happening, and what is happening, and I say it to everybody in the disabled community, is that you have been used for six months, and the Advocacy Commission, everything else that you have been used for—

Interjection.

Mrs Marland: —and the reason I'm being interrupted is because I'm putting something on the record that upsets the government. That's why I'm being interrupted.

The Chair: Ms Marland, I'm sorry. This is degenerating very, very badly. I'm going to stop you now. I'm going to stop everybody now. I'm going to deal with two things: One, there's a proposal for a subcommittee to meet with respect to this motion, so we're going to do that.

There's another unrelated matter that I want to deal with before we leave here. Mr Chiarelli, you have a motion.

Mr Chiarelli: It's just a housekeeping motion. I move that the Chair be authorized to report to the House that the following bill not be reported: Bill 151, An Act to control the Purchase and Sale of Ammunition. That bill was superseded by a government bill with agreement of the committee.

The Chair: All in favour? Opposed? That carries.

We now have the option either to meet right now as a subcommittee to discuss the motion that we passed earlier or find another time to deal with that some time this week. My suggestion would be that we try to do it now so that we get—

Mr Chiarelli: Tomorrow. I've got to go. Do it tomorrow morning. Anytime tomorrow.

The Chair: I may not be available.

Mrs Marland: May I ask a question? Are you discussing scheduling the public for four and a half hours? Is that what—

The Chair: We're discussing—

Mrs Marland: We're going to allow the public four and a half hours' input on this bill?

The Chair: We're discussing the motion that Mr Winner has moved and passed. So we need a subcommittee to discuss how we deal with that on the process level.

Mrs Marland: In his motion, he says—actually, he doesn't—he refers to Monday, December 5, and Tuesday, December 6. Today is obviously not even a week away from the first day of that schedule. Are you only going to give the public four and a half hours on this? Is that what you want the subcommittee to meet to discuss? It's not the way we usually treat the public.

The Chair: We won't have another discussion on this. We're going to find a time for the subcommittee to meet, either today if possible, or if not, tomorrow morning or afternoon, whatever time we can find. The minister, as part of that motion, hopefully will be here Monday to continue with this.

The committee adjourned at 1800.

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**In attendance / présents*

Substitutions present/ Membres remplaçants présents:

Cunningham, Dianne (London North/-Nord PC) for Mr Harnick
Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Ms Harrington

Also taking part / Autres participants et participantes:

Marland, Margaret (Mississauga South/-Sud PC)

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

C12 ON
X14
- 577

Publication



J-87

J-87

ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 5 December 1994

Journal des débats (Hansard)

Lundi 5 décembre 1994

Standing committee on
administration of justice



Comité permanent de
l'administration de la justice

Ontarians with Disabilities Act, 1994

Loi de 1994 sur les Ontariens
qui ont un handicap

Chair: Rosario Marchese
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Monday 5 December 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Lundi 5 décembre 1994

The committee met at 1544 in room 228.

ONTARIANS WITH DISABILITIES ACT, 1994

LOI DE 1994 SUR LES ONTARIENS
QUI ONT UN HANDICAP

Consideration of Bill 168, An Act to ensure Equal Access to Post-Secondary Education, Transportation and Other Services and Facilities for Ontarians with Disabilities / Projet de loi 168, Loi garantissant aux Ontariens qui ont un handicap l'égalité d'accès à l'enseignement postsecondaire, aux transports et à d'autres services et installations.

MINISTER RESPONSIBLE FOR DISABILITY ISSUES

The Chair (Mr Rosario Marchese): I call the meeting to order.

Minister, welcome. Ms Ziemba, please introduce the other representatives with you for the record, after which I understand you will be making some short statements, because my understanding is the members want to ask you questions more than anything else. Is that okay?

Hon Elaine Ziemba (Minister of Citizenship and Minister Responsible for Human Rights, Disability Issues, Seniors' Issues and Race Relations): I promise you that if people give me one minute without interruption, I will certainly only take 30 to 45 seconds, but I can't promise you anything longer than that because we might be interrupted again.

I have with me, from the Ministry of Citizenship, Sandra Carpenter and Andrea Maurice; from the Ministry of Education and Training, Jamie McKaye; and from the Ministry of Transportation, Dave Ferguson, Barbara Sorbara and Dale McConnaghy.

I did promise you it would be a very short introduction. I just briefly want to say thank you very much for giving me the opportunity to come back today and to again have the opportunity for people to come and present.

I want to say just from the outset, and this is about all I'm going to say, that I am very supportive of the intentions of Mr Malkowski's bill, Bill 168, the hard work he has done and the amount of input he has had in this process. I want to thank him for that—less than 30 seconds.

The Chair: Thank you. We'll begin with the official opposition members and questions.

Mr Tim Murphy (St George-St David): If I can, I'm wondering if the minister or some of the staff she has assembled have done a cost analysis of the impact of the bill as it's currently drafted and can provide the commit-

tee with some sense of what the cost would be of the implementation of the bill as currently written.

Hon Ms Ziemba: I think you might want the answer broken in two parts, one from the Ministry of Education and one from the Ministry of Transportation. I think that would probably give a much better analysis, so I'll turn to Jamie first from the Ministry of Education.

Mr Jamie McKaye: The ministry has not completed an assessment of the financial implications of the bill. We have initiated some discussions with the colleges and universities and the organizations that represent them, but that's at a pretty early stage.

Hon Ms Ziemba: It might be a good idea to have the Ministry of Transportation come up.

The Chair: That would be a good idea.

Mr Murphy: Actually, I'd ask Mr McKaye to stay.

The Chair: Sure, he's staying. Somebody else will be joining us.

Interjection: How long do we have per caucus?

The Chair: From five to 10 minutes, judiciously. Please introduce yourself.

Mr Dave Haines: My name is Dave Haines. I'm with the Ministry of Transportation. As of yet, the Ministry of Transportation has not done an analysis of what the cost impact or implications will be. We of course, as part of the work to be done with the regulations, will be looking at that as one of the aspects of that work.

Mr Murphy: As a follow-up to that, I'm wondering if the two of you could answer a couple of further questions. You've been very helpful so far. One is, have you been formally asked to do so yet by the minister? Second, have you done any kind of an internal or ministry consultation with affected client groups as a ministry in terms of the specific proposals outlined in the bill? Thirdly, have you done any internal studies or commissioned other forms of studies, or do you have them already, on the question of what it would cost and what it would take to impose upon colleges and universities, transportation facilities and others some kind of rule that says, "From now on, when constructing new facilities or doing any further initiatives in your field, what would and could you do to make sure anything new at least was fully accessible to the disabled community?" Those are three questions, if you remember all three.

Mr McKaye: I'll start off from the Ministry of Education and Training point of view. I would say that the request of us from the minister was more in the way of preparing ourselves for the committee's discussions of

this matter. We hadn't initiated any real analysis prior to a couple of weeks ago when we learned this bill would be before the committee.

1550

We have initiated some more recent consultation with the Council of Ontario Universities and the Association of Colleges of Applied Arts and Technology of Ontario regarding the costs that would be associated with this bill, and I understand that the Council of Ontario Universities will be appearing later today and will probably be in a better position to discuss that. We certainly require of colleges and universities, whenever they're renovating or putting up new facilities, that they be to code. We've heard estimates from the universities of \$5 million to \$15 million per institution, depending on their current situation, in terms of getting them up to that code. I'm saying that, recognizing that there are cases where people in the community would say that's not enough, that it's probably not a sufficient standard.

Mr Haines: As of yet, we have not been asked to delve into the issue of either costing or implications into any depth at this point. We have had the bill for some time and we have had a cursory look at it. There have been some informal discussions internally. I understand that tomorrow the Ontario Urban Transit Association will be attending these hearings to make its position known on the bill and its feelings towards it.

As to moving towards at least the intent of the bill, you may be aware that the Ministry of Transportation in 1990 committed to the long-term goal of full accessibility for conventional transit systems. In fact, since July of last year all transit buses which were acquired with assistance from the province will now be fully accessible. GO Transit, of course, is moving towards full accessibility. As early as the spring the trains should be fully accessible. So we've already started in that work although, as my friend from Education said, we obviously still have quite a long way to go.

Mr Murphy: Thank you. I appreciate the answers. You'll forgive me if I think that in terms of an analysis of politically what's going on, we're involved in a public relations exercise, since clearly, through no fault of your own, you have not been asked to do any work in connection to the bill.

I do have one specific question. How much time do we have? A couple of minutes?

The Chair: Three minutes, maximum four.

Mr Murphy: I'll turn it over to my colleague.

Mr Alvin Curling (Scarborough North): Let me ask the minister this, directly: Will you be supporting this legislation?

Hon Ms Ziemba: I support the intent of the legislation and the work that Mr Malkowski has done on this bill.

Mr Curling: When I'm asking you this, I'm asking you as a colleague in Parliament and I'm using the word "supporting" to mean that you will move it to third reading before we adjourn on the eighth.

Hon Ms Ziemba: As you know, Mr Curling, as a colleague who has been in this House much longer than

myself, we have three days to go, and how many bills will be passed has already been negotiated by both your House leader and by the House leader of the third party. Those negotiations have nothing to do with myself but have to do with the House leaders' office. That is the work they do, which they do very capably. You might want to discuss it with your House leader, but I think they've already come to an agreement, to my understanding, of the bills that will be passed before December 8.

Mr Curling: I presume you're saying no, then, with all that long explanation.

Hon Ms Ziemba: I didn't say no. I explained the process and the fact that I don't have a right to go into the House leader's office, your House leader's or the third party's, and overturn a decision that they have made.

Mr Curling: We know that, Madam Minister, because we know we have four bills that actually we have closure on and we have seen quick legislation move through, and I think that it is extremely important.

Could I ask you then whether or not what you're asking here, what this bill is asking, is similar to what the private sector is being asked, or is it less?

Hon Ms Ziemba: Bill 168, if you want me to go into a very detailed explanation that I was trying to do last week, was to explain the rights that will be enshrined in Bill 168 versus the rights that already exist under the Human Rights Code. If you want me to do that explanation I can do it.

Mr Curling: No, I just was wondering.

Hon Ms Ziemba: Bill 168 and the Human Rights Code both enshrine that people have a right to certain services and accessibility. The code does provide for that right, and that is what's enshrined in the code at this particular time for the private sector.

There's one part of Bill 168 which, if you want me to respond to it, is the part where we talk about undue hardship or undue financial constraints, and those particular words about what is included in 168 differ from what the Ontario Human Rights Code provides for. That difference, because it has not been tested so far in the definition, there is no definition to that, and because it has not been tested in any way in the legal parameters, it would be very hard to say which provides for a more stringent definition. So we would say that the Human Rights Code at this particular time probably provides for a definition that we understand and that has been tested and tried.

As well in Bill 168 versus the Ontario Human Rights Code, the Human Rights Code provides for a broader definition of "disability," so that if somebody is trying to ascertain their rights under the Human Rights Code, there is a much larger definition than what we think Bill 168 defines.

Mr Curling: Just a last quick one.

The Chair: No, sorry. We ran out of time. Ms Marland.

Mrs Margaret Marland (Mississauga South): Minister, your answer to Mr Curling is the same as your opening comments today where you said, "I'm very

supportive of the intentions of this bill." I don't want to play language games. I think there's enough gamesmanship going on around this bill. The subject matter of this bill and the people who are affected by this bill are far too serious to have any games played. I'd like to ask you outright, are you supporting the bill as it is drafted?

Hon Ms Ziemba: Again I will reiterate that as it is drafted in Bill 168, we fully support the intent. But, as with every bill, there might be some minor amendments that we'd want to make to that bill. I don't think that any bill comes before a committee without us hearing and listening and making sure that we understand all the various things. I would have some questions about various definitions in Bill 168 that we might want to look at a little bit more closely. As I said, and I started to explain about the Human Rights Code definition of "disability" and Bill 168 and the definition of "disability," I think we would want to have those two move more simultaneously and closely together in definition. It would be very difficult in government if you have definitions that are different from bills that are going through. There are other things that I could probably say as well.

As in any bill, if I might say—this is not gamesmanship, but I just want to be very clear with you that I can't say I would take the whole bill and just say we would want to pass it the way it is. There are probably things I want to clarify with my colleague and see if he would agree and work with him to make sure that amendments went through. But I might also say that I think very clearly that we would want this bill, if we do prorogue on Thursday, to be carried over into the next session.

Mrs Marland: All right. You know quite well that the House is going to prorogue on Thursday and every bill that is on the books dies when the House prorogues.

Hon Ms Ziemba: Not if you put in the clause, when the House prorogues, if I might just interrupt, because this is what we've had before with bills and this has happened on many occasions, to say that these bills are carried over.

Mrs Marland: I'd like to ask you again, without you giving the same answer that you just gave—

Mr Gary Wilson (Kingston and The Islands): Ask a different question.

Mrs Marland: I think the minister's quite capable of answering the questions without support from the government members, at least I would hope so.

1600

Minister, the bill as drafted, which is the only bill that is before us, the bill that we are here to debate, the bill to which the deputations will be responding is Bill 168. Do you support Bill 168 as currently drafted?

Hon Ms Ziemba: I might say again to my colleague that with every bill, when they come forward, there are—

Mrs Marland: No, I'm just asking if you support it as drafted. You've already explained that you wanted to make some amendments.

Hon Ms Ziemba: I guess I would like to say that the previous response will stand.

Mrs Marland: All right, so the answer is you do not support Bill 168 as drafted. You've explained that you want to make some amendments. You explained that it won't be possible to do this because there are only three days to go.

The next question I would like to ask you, as a member of cabinet, is were you part of the decision of your government to stay out of this House for five weeks longer than in the scheduled calendar this fall?

Hon Ms Ziemba: There are discussions that we have in cabinet that I don't think are appropriate to bring forward before a standing committee.

Mrs Marland: So you can't answer that question.

Hon Ms Ziemba: I don't think that is part of what we're discussing today; we're discussing Bill 168. I don't think we're discussing a cabinet decision.

Mrs Marland: Yes, but we are discussing Bill 168. We have a room full of people who are interested. We had twice as many people in this room last week in very uncomfortable conditions, in the physical sense, and every one of those people is interested in Bill 168 and this minister is telling us there are only three days to go.

The reason I'm asking about the five weeks that this House was scheduled to sit this fall, according to the parliamentary calendar—agreed to by all three parties, I may add. The reason we're now down with three days to go, and I presume the reason the government's been moving closure on all its bills in the last two weeks, is because we didn't sit for five weeks, we didn't sit when we were scheduled to sit. If this government was sincere about Bill 168, we wouldn't have a minister coming with a prepared text, where she says, "It is critically important that a thorough consultation and policy process occur before comprehensive legislation is achieved."

We are now having two hours and 10 minutes of deputations. Two hours and 10 minutes of deputations are being scheduled for today and tomorrow. This House sat empty for five weeks when, if the intent of the government was to do anything for people with disabilities in this province, the work could have been done.

Mr Malkowski's bill has been tabled for six months, and I think it's an absolute disgusting sham on the part of this government, more than anything else it has done with the disabled community in this province with all the millions of dollars of cutbacks. The fact that we had 5,000 people with developmental disabilities on the front lawn at Queen's Park is an indication of what we're dealing with today. It's still more of the same, and I yield the floor to my colleague.

Mrs Dianne Cunningham (London North): To the minister, I'm wondering how we can proceed from here. I think we've had a lot of good information as a result of certainly my own inquiries as the critic for colleges and universities. We did send a letter out asking the colleges and universities what the impact would be and how they could meet the requirements of the legislation, and you won't be surprised to know that it's going to be very expensive.

The physical access, they've told us, would be anywhere in the range of \$5 million to \$15 million for

institutions. There are specific time frames in the bill, and I'm wondering how you would deal with that. We've done the work, so what are we going to do now?

The other two areas universities were very concerned about, probably more so than the physical because they've made tremendous strides there, are interpretation services and attendant care, two concerns I get from all the universities. I'll be specific and then you can respond.

We had tremendous response from Carleton in that one of my young constituents when I was first elected, a fellow by the name of Martin Anderson, a great leader, tremendously physically disabled, was instrumental in getting a policy at his university. The University of Guelph has responded in detail, the University of Western Ontario, Seneca College, University of Toronto, Fanshawe College and Sir Sandford Fleming have all made pretty good detailed responses. If you can talk about the physical access, the attendant care, which I'm very concerned about, and certainly the area of interpretation services with regard to the plans or recommendations your ministry has with regard to the dollars and cents, I'd appreciate a couple of minutes on that.

Hon Ms Ziemba: Certainly. I'm very pleased to respond because you're actually asking questions about Bill 168, and that's really very important; that's what I thought the standing committee was here to discuss. But I would like to ask the Ministry of Education, because it has done some work in that area and I read over some of its comments earlier. I think they can give you the answers and response that you require.

Mr McKaye: With respect to the cost of making campuses fully accessible, our information corresponds with yours, the \$5 million to \$15 million for university campuses. I don't have a clear picture of how long it would take to make all the renovations that are necessary. It would be primarily based on the rate that funding could be made available to do those things.

I do have a little bit of information with respect to attendant care costs. As you're aware, these costs are covered by a range of agencies, including the vocational rehabilitation program managed by Community and Social Services, and the long-term-care division of the Ministry of Health. The cost associated with the provision of attendant care is difficult to estimate, since the service is so individualized in nature. Students could require anywhere from half an hour to 24 hours of care, depending on their needs. My understanding of the cost estimates are anywhere from \$16 to \$24 per hour.

With respect to interpreter services for deaf students, according to the ministry's information there are approximately 680 deaf and hard-of-hearing students who were in receipt of accommodation in the colleges and universities in 1992-93. They have a range of services provided to them, including manual and computerized note-takers, interpreters, and FM systems. The cost of providing full-time interpreter services to one full-time deaf student is estimated to be about \$40,000 a year. If we were going to get more information, we'd have to solicit it directly from the institutions and get it from the special-needs offices that are actually providing that service to the students on their campuses.

Mr Gary Malkowski (York East): It's a good opportunity for us to debate this bill. Before I speak, I heard this morning on the radio Archbishop Desmond Tutu, who was speaking in Sydney, Australia, at an international conference on disabilities, and has come out strongly supporting disabled rights and saying that he challenges the world to support disability rights and respect it as a moral issue. He's calling on the world to stop discrimination against disabled people. That was on the air this morning on the news. As a member here and as other members here—of course, in my role as an MPP, I felt an obligation to speak out on behalf of the wider disabled community and on behalf of deaf people and all to speak about global, holistic access and barrier removal. That's part of what my private member's bill attempts to deal with.

I would like to ask the Minister of Citizenship a question: Have any feasibility studies or some kind of proposal related to the ODA, any kind of studies to that effect, ever been taken up by the ministry? What kind of impact might come about and would there be any kind of studies like that coming forward? I'd like to know what the implications of that on Bill 168 might be, just briefly, if Citizenship has any feedback for us on that. I know others have already commented on the cost—but if the ministry would be planning to do some of that.

My last question, though, I would like to ask: Would the government, do you think, be committed to an ODA act at some point, either in the form of a private member's bill on third reading, or perhaps we could look at a discussion of the act in general to take to the people and then hopefully present a government bill? Where do you think our government commitment might lie on something like this?

Hon Ms Ziemba: First of all, in response to your first question, the Ministry of Citizenship has, as you know, over the last couple of years, done many various studies and work. We have had two major bills that have gone forward—one employment equity and one the Advocacy Act—that have required us to look at various forms of accessibility and rights for people with disabilities. So, yes, there have been various amounts of consultation and work done.

1610

When the Employment Equity Act was going through the Legislature, a committee was struck by the Employment Equity Commissioner to look at the very specific needs of people with learning disabilities because that has been a very difficult issue for a lot of us to understand, to grapple with and to know what the various concerns of that community are and what their needs are. A lot of work has been done. The committee was very large. I think it was made up of roughly 50 people coming from various different sectors: the private sector as well as labour, as well as community-driven organizations, as well as advocacy groups. It was chaired by Dr Shirley Van Hoof, who, as perhaps my colleague from London will know, is from London and chairs the advisory council on disability issues. They have done a remarkable job, being able to come forward to the government and to the Employment Equity Commission with their

understanding of the needs and the work that needs to be done for people with learning disabilities.

There have also been other studies that have been funded by the ministry as well as policy work that has been done in the ministry itself. I wish I could go on at great length but I had that in my notes last week, plus, we could give you further information but I know that other people want to answer questions today and we have such a limited time here.

There has been, as I said, in the last number of years a lot of good research work that has looked at various needs of persons with disabilities, whether it's with employment, whether it's education or whether it's just in living. A lot of work has been done with other ministries to understand how those needs should be met and could be met and the way we can reach our goal, which is to make sure we have a barrier-free society in Ontario in a very short time. What that time would be, we don't know, but I think most people in this room would agree, as you stated with Archbishop Tutu, that we do want to have a society that is barrier-free, not only in Ontario but in the world itself.

In direct answer to your question, I think you and I and other members, other ministries and other ministers should sit down to discuss how we are going to accomplish this, because there are two other ministries that are really more directly involved in this bill than our ministry, that need to have some relationship to how we work towards achieving those results that you care about so much and all members in this room care about. I think we can do that and come to an agreement that would be satisfactory to everyone.

I just say on one final note that this does, though, give us a great opportunity to hear from various groups of people who will be coming forward in the next two days. Although I can't be here with you for those two days, I will certainly be looking over the transcripts, I will certainly be reviewing all the remarks and the deputations that are made and will want to have further discussion with you after those two days are over with.

The Chair: Just as a reminder, Mr Malkowski, there are two other speakers who want to ask questions, and there are three and a half minutes left.

Mr Malkowski: Just one very small, brief point then before I pass it on. From the Ministry of Citizenship has there been a specific proposal on an ODA project ever heard within the ministry or briefings? Has anything like that taken place?

Hon Ms Ziemba: I'm sorry, Gary, I don't quite understand the question. Could you just repeat that for me. With the bells going I might just not have heard it very well.

Mr Malkowski: I asked if the Ministry of Citizenship had ever undertaken any kind of project or study on the potential or possibilities of an ODA legislation, or have they looked at any kind of research? Has that been undertaken?

Hon Ms Ziemba: There has been some work done in that area, yes.

Mr Malkowski: Thank you.

Ms Christel Haeck (St Catharines-Brock): I want to thank you all for coming today. I was thinking back to some of the legislation I have had privilege to sit on over the last four years, the awareness of disability issues as well as at times, in fact, how the additional services have been provided. I'm looking at long-term care, the Regulated Health Professions Act, the auto insurance bill, and the members here have already provided us an insight into expanded transportation policy issues.

In my role as parliamentary assistant to the Minister of Colleges and Universities some time ago, I had a chance to visit Ryerson and see the facility that they have, which is really quite admirable in comparison to what I know may exist in other institutions. It definitely has provided a very useful facility which I hope other universities and colleges look at emulating to help students, be they with a learning disability or another physical disability, be able to make use of that facility.

The accessibility funding that your ministry provides—and I can think of a number of cheques I've had the privilege of being able to deliver—what size is that right now? I know they go to churches and a range of other institutions, but what kind of funding are you putting in place to assist different organizations in our community to upgrade their facilities to provide service to seniors and the disabled?

Hon Ms Ziemba: Thank you very much for the question. I think everyone in this room has probably had the opportunity to present a cheque to either a church, a Legion hall or to some organization within your riding that provides for access into that building. Many of the buildings that were built many years ago, and the beauty of the architecture, made it very difficult for people with disabilities to enter into that building—or seniors, even small children, moms with strollers.

Mrs Marland: I had five turned down.

Hon Ms Ziemba: The colleague from Mississauga said that five of hers were turned down. The unfortunate thing is that there is an oversubscription to this very, very popular program, but we also very clearly stipulate that before we approve funding, we have guidelines that must be stuck to very, very clearly. One of those, of course, is that no work must proceed on any of those buildings until we approve them because obviously we'd be swamped with completed projects that perhaps did not follow building codes or were not properly looked into. It says very clearly in those guidelines, when people pick up their brochures, that they must first come and get their approval before we will decide, and we can't just holus-bolus give everybody their grants without looking at their proposals first. It is a very popular program.

We did increase the funding last year under Jobs Ontario Capital funding because we wanted to increase not only the number of people getting into buildings and to increase the number of buildings that would be accessible, but also because it helped us, under Jobs Ontario, get people back to work. So it served many different purposes.

When I said earlier that many members here would have the opportunity to pass out the cheques, it's a very non-partisan view that we take. First of all, it's not a

group of political people who sit down and decide, it's a group of community people who decide on the funding, and then we also let all of our colleagues know, if they would like to present the cheques to their community groups, and they have often taken us up on it. Sometimes partisanship comes into play and they say they don't want to, but that is up to them to make that decision.

The Chair: Thank you, Ms Haeck. We've run out of time. Sorry, Mr Winninger.

Madam Minister, we thank you and the other ministry staff for coming today to help us with members' questions.

Hon Ms Ziemba: I thank you very much, committee, for giving us the opportunity, all of us, to be here today. I know the deliberations will be very interesting and I look forward to reading those responses and the Hansards as they come forward.

Just one last remark. Mr Curling has finally been able to ask me a question. I know he's been wanting to do so for so long—

Mr Curling: It's a waste of time.

Hon Ms Ziemba: —in the House and the whip has not been able to give him that time in the House. Thank you very much.

Mr Curling: I don't want to ask any more questions if it isn't on equity.

1620

ONTARIO PUBLIC SERVICE ADVISORY GROUP
ON EMPLOYMENT EQUITY
FOR PERSONS WITH DISABILITIES

The Chair: We call upon the various deputants we have here from the Ontario Public Service Advisory Group on Employment Equity for Persons with Disabilities. Please come forward. We welcome you here today. Just as a quick reminder, there are only 20 minutes, so if you want the members to ask you questions, please leave as much time as you possibly can after your presentation. Mr Drewett, can you present the others so we know who they are?

Mr Bruce Drewett: In addition to myself, we have Don Ogner, who is the past chair of the group; David Lepofsky; and to my right, Peggy Malloy. It is a pleasure for us to be here today to comment on Bill 168, commonly known as the Ontarians with Disabilities Act.

The advisory group is a group of employees from across the OPS that advises the Ontario government on measures to promote equality and full participation for persons with disabilities through employment equity, human rights and other related initiatives such as the act that we're here to discuss today. Each of us is here speaking in our capacity as advisory group members and we do not purport to speak on behalf of the ministry by which we are employed, just so everyone's clear on that point.

David Lepofsky will be speaking on behalf of the group today in terms of our presentation, and we'll be happy to answer any questions you may have about his comments or about the brief we've submitted.

Mr David Lepofsky: May it please the committee,

you've been provided with an outline of today's remarks which you're welcome to follow if you're able, and if you're not, then you know what we experience when we go to meetings every day.

We appreciate this opportunity to meet with you and we're going to cut to the quick right up front. The situation facing persons with disabilities in this province can only be characterized as critical, and their needs will not be met by promises, their needs will not be met by grand speeches on how much we've done for them, their needs will not be met by partisan politics, and their needs will categorically not be met by anecdotal grand statements about how individual people with disabilities have been able to meet the challenges facing them individually in their conquest over their disabilities. Their needs will only be met when the government of Ontario and the Legislature of Ontario take the following steps:

(1) When they recognize that the society in which we live is riddled with barriers confronting persons with disabilities.

(2) When they recognize that without new government action, those barriers will not be substantially diminished.

(3) When they realize that the costs of removing those barriers in the final analysis are usually exaggerated by those with the worst track record for creating those barriers, and yet the costs of leaving those barriers up are consistently ignored by them.

In that regard, we wish to briefly identify the nature of the problem that we say people with disabilities face, propose the nature of the solution, and respond briefly to some of the worst arguments made in response to the position in support of Mr Malkowski's bill.

We would note at the outset, before doing such, that we view the issue of addressing the needs of persons with disabilities to be categorically a non-partisan issue. That is to say it is not a question on which one can take a different position because one is on the left, one is on the right, one is in favour of large government or small government. We have seen some of the most progressive legislation addressing the needs of persons with disabilities signed into law in the United States by a president not known for his record on leftist issues: George Bush. So we feel this is the kind of issue which could well secure support from all sides.

We also note at the outset that we would welcome all parties endorsing this legislation, we would welcome all parties agreeing to have this bill stay alive while Parliament is prorogued, if it is, and we would welcome all parties supporting the continuation of hearings over the intersession period.

With respect to the position taken by the minister before this committee that she supports the intent of this bill, we would only pass around a copy of a transcript to members of the committee from a proceeding of the CBC national radio program Cross-Country Checkup. I have a copy of the tape, which I'll file with the registrar so you can confirm its accuracy, but at the top of the first full paragraph of the second page, the overleaf page, you'll see a clear indication by the Minister of Citizenship not simply that she supports the intent of the bill, but that she

supports the bill. We hope and trust that commitment will be honoured. Intent is not enough.

What is the problem facing people with disabilities? Put simply, we are a substantial and a substantially disadvantaged minority. Our numbers are at least as high as 14%; some would say as high as 17%. Speaking to you as politicians, that's a lot of voters, and most of them are over 18. Of those people, they have a disproportionate share of societal disadvantage. Members of the public consider it outrageous when unemployment peaks over 10%. Current Statistics Canada census data from 1991 suggest that in this province, of those employable-age persons with disabilities, over 50% were unemployed in the year 1991. For them, 10% unemployment would seem like heaven.

Persons with disabilities are disproportionately dependent on social assistance, whereas the kinds of initiatives that we urge would take them off social assistance, cut costs to the public, turn them into taxpayers, and thereby contribute both to economic growth and to individual sustenance by these persons with disabilities.

Persons with disabilities are, in relation to public education, and especially post-secondary education, substantially disadvantaged, as a result of which government data suggest that the proportion or ratio of persons with disabilities who have graduated from university in this province is less than half of those persons who are not. Something is terribly, terribly wrong.

If we have a serious problem, will the existing legal mechanisms available to us solve the problem? The Charter of Rights will not, for it only addresses the government and requires you to be a millionaire to bring a claim and have 10 years to litigate it. The Human Rights Code, while important, will not. Its terms are too vague. Employers, government and private as well as private sector and government service providers, have a tendency of continuing their own practices now and waiting for someone to file a human rights complaint later. People with disabilities just don't have the time to become full-time human rights police officers, filing complaint after complaint, though in the life of any person with a disability any day will encounter an event that could well give rise to a human rights complaint.

Employment equity legislation is important, though the data in our report from the government itself document that after four years of accelerated employment equity, our representation in the public service has gone down, not up. We call that accelerated employment inequity. While we think it's important to have the legislation and the program, we don't have any delusions that it's going to solve our problems.

What needs to be done? We need to identify that there are two problems we face. The first is that our society is full of too many pre-existing barriers, barriers which despite legislation like the building code and the Human Rights Code have not been taken down. But as well, we face new barriers. New barriers are being created as we speak, in technology, in new buildings, in new programs, in the public sector and the private sector. If nothing is done to check this, the disabled people who live in the year 2000 will face more barriers in many respects than

we face today. The fact of the matter, for those of you concerned about cost issues, and that's been the subject of debate here, is that it costs little, if anything, to prevent new barriers, but it will cost whoever is in power in the year 2000 a lot more money to remove those new barriers after they are created.

We therefore urge the passage of a strong ODA, such as the bill before you, along with the amendments that we've proposed in our brief so as to achieve the twin goals of removing existing barriers and preventing new ones. We believe this will contribute to economic growth as well as liberating disabled people from the substantial disadvantage from which they now suffer and from which they will continue to suffer if nothing is done about it.

1630

Let me turn briefly to some of the arguments made against this.

There should, one would think, be no one who opposes access and full participation for persons with disabilities. After all, there are those of us who now have disabilities and those of you who don't have one yet. If one needs only one example of the random chance that can lead to disability, ask Lucien Bouchard. The fact of the matter is that everyone either has a disability, knows someone who has a disability, or will likely get a disability later in life. So it's in everyone's interest to address this problem. It can't be sloughed off as somebody else's.

What about cost? One of the common stereotypes about cost is that the cost of accommodating people with disabilities is too high. It is not. The cost of excluding people with disabilities from the mainstream is too high. We are to hear from the universities about the \$15 million it will cost them to address the barriers they have created themselves. We ask you to ask them what they would do about it, if this bill isn't good enough, but more importantly, I'd welcome an opportunity to cross-examine their accountants to find out (a) how exaggerated those figures are, and (b) where else the fat is that could be cut.

Speaking personally, I'm a part-time member of the law faculty at the University of Toronto. If that school has barriers, perhaps one way they could pay for some of them is to look to the mansion that the university owns and provides the president of the university to live in. In these days of fiscal restraint, before telling disabled people that they can't access all the premises of the university, perhaps some of the luxuries could be dispensed with.

Finally, for those who are concerned about this as a left-versus-right issue, we say categorically that the effect of barrier removal today and prevention of tomorrow's barriers is to provide for smaller government in the future. The effect of maintaining barriers and leaving the public and private sector free to create more is to ensure the need for larger government tomorrow. This is an area where equality does not conflict with economics; equality promotes economics.

To conclude, we urge that this bill be passed. We urge that it be passed with the support of all parties. We urge that it be passed with the substantive proposals set out in our bill or in any other proposals that may be achieved.

We urge that government resources be dedicated to develop any amendments that may be needed quickly, and that the time between the end of this session and the start of the next be used effectively to debate the bill, to hear from the community and to resolve the pressing crisis confronting persons with disabilities.

To those who have said there's a problem with publicity stunts, we don't want any publicity stunts. We want equality.

Mrs Marland: That's a powerful presentation, Mr Lepofsky, and I congratulate you on it.

Yes, society is riddled with barriers, as you have said, but you also said intent is not enough, and I did say last week that this government, or any other government, doesn't need any more white papers, discussion papers. We've got enough reports already in existence. Would you agree that there is enough information in Ontario today to act on your concerns without any more information report dust-gathering?

Mr Lepofsky: People with disabilities have the good fortune of having been studied to death. Those who are still alive would like to see equality before they see more studies, and they are studied to death. We therefore encourage all parties to endorse this action, and we also encourage those who have been surveying the universities and others who are not now complying with the norms of equality to equally survey those who have been the victims of inequality at the hands of those universities. But we would call on all parties to endorse both the need for no more studies but rather action, and to endorse this particular bill.

Mrs Marland: So you must be concerned by the fact that last week Mr Malkowski said, "We want to permit the disabled community to come and present and give their feedback on the legislation, and I think then this would lead to a government discussion paper or perhaps introduction of a government bill." How do you feel about that?

Mr Lepofsky: Well, enjoying the good fortune of not participating in the political process, I won't accept the invitation to join it here, but I will suggest that anyone who takes aggressive steps to get this on the agenda is taking steps that we encourage and we support. To that extent, we have been and will be congratulating and continue to congratulate Mr Malkowski for having brought this forward. We'd rather see legislation than discussion papers, but we'd rather see something more than nothing.

Mrs Marland: So you wouldn't be happy to see another government discussion paper or another bill introduced, as Mr Malkowski has referred to?

Mr Lepofsky: I think my last answer probably answers that sufficiently, but we'd like to see a law passed. Whatever will get that law passed and whatever will get barriers removed most effectively, we support.

Mrs Marland: When you refer to the problem in society, you also refer to the Human Rights Code and the process that generates from that code, which is going to the Ontario Human Rights Commission. I have a constituent who is learning-disabled, whose case has been before

the Ontario Human Rights Commission for seven years. The Ontario Human Rights Commission now admits that it has never had investigators trained in learning disabilities, although it has 20 cases on its books. I simply ask you, as a member of this particular advisory group that you're part of, do you feel that when we have something as systemic as the Ontario Human Rights Commission itself with untrained staff making decisions on people with learning disabilities, that makes the whole system fall apart and stands for nothing?

Mr Lepofsky: I think it's fair to say that the Human Rights Commission has been criticized by those seeking justice from it ever since disability was added into the code in 1981. Nobody has found a solution.

One of the things we look to in this bill is to get away from the idea that an individual person with a disability has to go to university and file a complaint against the university they'd prefer to have teaching them and wait the four years for an investigation. Rather, we'd like to see the universities and other service providers themselves proactively identifying the barriers and removing them so that the student can arrive at an accessible premise.

In other words, the Human Rights model of investigation has its limitations in that it requires individual people with disabilities to come forward and make themselves into a litigant full-time. We'd have rather a system that's proactive to work in tandem with it but that is proactive at barrier removal. That's what this bill seeks to do and that's what our proposals in our brief would seek to expand upon.

Mr David Winninger (London South): I certainly appreciated your submission that the removal of barriers under Bill 168 is not inconsistent with economic growth, and also that the step forward taken under Bill 168 advances the interests of everyone and not just the disabled community.

You've spoken to the limitations under the Human Rights Code. I wonder if you could comment on how far Bill 168 goes in better addressing the need for equity and access in education, transportation and government services that may not be completely served now under the Human Rights Code, the Advocacy Act and the employment equity legislation.

Mr Lepofsky: To begin with, the Employment Equity Act doesn't address it because it deals only with employment and not equity in services. The Advocacy Act doesn't address it because it's not a law that aims to provide barrier removal and various access to goods, services and the like. So those are gaps that are left only to the Human Rights Code. The Human Rights Code does provide a guarantee of equality in services, but it does not have a proactive component. In other words, an individual must simply be discriminated against, file a complaint and spend four years or more trying to resolve it.

What this bill as designed, and particularly some of the proposals we've made to enhance it or build upon it, will do will be to take this into a different environment, to provide for those who provide large-scale services and the like to the public to themselves look and not simply

go about business as usual—discriminate now, wait to be sued later—but instead to go about the process of trying to identify barriers and remove them now. Frankly, the quicker they do that, the more they can integrate it into their business plans, integrate it into their work and accomplish low-cost, effective barrier removal, and at the same time save the cost to the private parties and the government of having to litigate these things on a case-by-case basis.

1640

Mr Robert Chiarelli (Ottawa West): I just want to refer to a couple of your comments and then ask you a question concerning them. You had indicated that as far as human rights code type of sanctions are concerned, you considered some of the terms too vague, you indicated that disabled persons didn't have time to be full-time police officers with respect to enforcement of human rights, and you had indicated that the minister's intention was not enough.

Having reviewed those comments, I would like you to address your attention to the structure of this bill. I see some very significant structures to the bill in the sense that it lacks real bite and real effectiveness.

First of all, the structure of the bill creates a number of rights. For example, every person with a disability has a right to be accommodated in a training program in accordance with the regulations. Then it indicates, as I see it, that the only sanction you have is that where a person believes that a right of a person under this act has been infringed, the person can file with the Ontario Human Rights Commission. Then it goes on to say that the Lieutenant Governor in Council may make regulations prescribing goals and timetables for the development, implementation, review and revision of access to education plans etc.

To me, it's very clear that what the bill appears to do is express nothing more or less than an intent, because what it does is create the rights, then it says you can file a complaint with the Human Rights Commission, and then it says the Lieutenant Governor in Council may make regulations prescribing goals, timetables etc. So this bill is only potentially proactive, if I can use your terminology again, and I'd just like your comments on my assessment of how I'm reading this bill.

Mr Lepofsky: Well, let me begin by saying that if it is your and your party's position that people with disabilities need even more, then we delight in your public acknowledgement of that.

Mr Chiarelli: That's the case.

Mr Lepofsky: Thank you. If you'll look at our brief, you'll see that what our brief does is in fact make specific recommendations to build upon the enforcement processes set out in this bill. We note that Mr Malkowski, in putting this bill together, is not a cabinet minister and did not have the resources of an entire ministry to do all the regulatory/enforcement policy work that could be done. We've tried to back that up here with our brief and give you what you need to add to it and go ahead with it.

You'll see that we suggest several things. First, we suggest that there be a rule-making process which can

involve, even if the government does not initiate a regulation, initiation of regulations by affected groups such as Persons with Disabilities and which can provide for hearings or other input with input by affected groups such as universities, transit providers and the like. So rather than litigating this as a suit over discrimination, which I could tell you is quite emotionally charged, it can be addressed as a proactive policy-making process, culminating in regulations. So it isn't simply the way we would like to see it expanded; it would provide for regulation-making not simply at the whim of the government, but at the initiation of private groups towards the government as well.

Similarly, we suggest that there should be a process of enforcement that doesn't simply arise when an individual is denied access as is required, though that's an important component, but we also suggest that there should be a process for complaints in relation to inadequacies of plans and the like, comparable, to some extent, to what's being done under the Employment Equity Act.

In other words, we're not saying, "Take that out," but we've made a number of suggestions of practical things that can be added in that will make it work.

What we think is that the best way to make standards—let me give you an example, say of trust companies. This level of government regulates trust companies. They put out these instabank machines. Some of them a blind person can use; some of them they can't. Some of them are too high up for a person in a wheelchair to use.

Now, there are two ways of dealing with it: You can go to the Human Rights Code and you can file a complaint, wait 20 years and maybe get a decision that you should have had a bank machine that was accessible, or you could have proposed, as we urge, that a regulation be made to set standards, goals and timetables for accessible bank machines. That would enable the banks, or in this case the trust companies, to be heard, for us to be heard and then the government to make an appropriate standard that enables people to work towards it.

I use that example because some financial institutions are putting in new bank machines that we're not going to be able to use, and they're being built right now.

The Chair: Thank you, Mr Lepofsky. We've run over the time, but, Mr Murphy, do you want to make a very brief comment?

Mr Murphy: I just want to thank you very much for a very effective presentation. Two quick questions—and hopefully if you can answer—

The Chair: Sorry, Mr Murphy, no. We won't have time for questions because we went way over the time, sorry.

I want to thank you, Mr Lepofsky and the Ontario Public Service Advisory Group on Employment Equity for Persons with Disabilities, for participating and responding to Bill 168.

Mr Lepofsky: We thank you and we hope you've got lots more meetings ahead on this.

COUNCIL OF ONTARIO UNIVERSITIES

The Chair: We call upon the Council of Ontario

Universities. Dr Selleck, perhaps you might introduce the rest. I didn't know who would be introducing everybody.

Dr Laura Selleck: I've asked Dr Peter George, who is the president of the Council of Ontario Universities, to make the introduction and some opening remarks.

Dr Peter George: I'm Peter George. I'm president of the Council of Ontario Universities. May I take this opportunity to introduce the other members of our delegation: Susan Weaver is the coordinator of services for students with disabilities at the University of Western Ontario and chair of the Inter-University Disability Issues Association; William Hoch is the manager of the office for ability and access at McMaster University and a member of the IDIA and the COU committee on employment and educational equity; Laura Selleck is a research associate at COU who works with our equity and status of women committees.

I want to leave most of the time for questions, as you expressly asked in your communications with us. I'm very pleased that on such short notice we were able to have Susan and Bill here. As university officers responsible for providing services to students with disabilities, they can explain what the Ontario universities have already been doing and how Bill 168 might affect this work.

Our brief mentions some of the Ontario university initiatives to increase access. It includes appendices with data on the growing number of students identifying themselves to us and to our special-needs offices, as well as a report on the wide range of educational equity initiatives at specific institutions. These examples include: revised admission selection processes, provision of special residences, library and computer facilities, and special services to help graduating students with disabilities find employment.

Our brief also comments on some cooperative activities involving all of the universities, including the work of university special-needs officers with their counterparts from the college system, a barrier-free checklist for college and university campuses which will be distributed by COU later this month, and a new working group on barriers to graduate studies.

These activities demonstrate the Ontario universities' commitment to expanding educational opportunities for students with disabilities and to others who have been limited in their participation in post-secondary education. We do, however, have some concerns and reservations about the process for developing Bill 168 and its approach, which I'll ask Bill Hoch to describe.

1650

Mr William Hoch: Our intention in being here today is to recognize the commitment that we have to the principles of the Ontarians with Disabilities Act and the fact that we fully support expanding access and the issues involved in Bill 168. We are concerned, however, about the apparent isolation with which some of the clauses and some of the regulations that will be written are being established.

If we have done anything wrong, it would be to not effectively communicate the strengths and the positive

attributes that our universities have already undertaken. Every university has support services, has the ability to provide services to any person with a disability, regardless of disability and regardless of need. The issue in some cases, however, boils down to a lack of what we would consider to be effective partnerships from various government service areas. Those partnerships, when you're trying to establish programs, require commitments and cooperation between government departments, and we're not always seeing that. That's not passing the buck on our part; that's the reality. There are ministries that will refer people to us in order to avoid paying their share, and we consider that an undue burden.

The time lines in the legislation represent a concern to us because they're not specified. We recognize that we have a way to go. In some cases, we have a significant way to go, because many of our institutions are significantly aged in terms of their buildings and some of them are designated historical landmarks and these things require significant change and certain types of special legislation.

We are, however, of the impression that this bill focuses really only on four significant areas: post-secondary education, transportation, government publications, and communications. It does, as David Lepofsky said, ignore the general needs of persons with disabilities, and from our point of view, we are concerned that higher education is being targeted as the only area of need.

In addition, the recognition that all barriers and systemic issues must be eliminated with this bill would prove impractical. I would point out simply that the government has spent an enormous amount of money in making this facility accessible, and yet trying to get here, trying to find your way into this building, trying to get to this hearing room presented an obstacle in itself.

We face those same obstacles, yet they're challenges for all of us. Access to post-secondary education is not an unconditional right; it's a right that bears with it responsibilities for admission, responsibilities for achievement. Everyone has the right to achieve and everyone has the right to that education and we are attempting to provide that, based on what people present to us. In many cases, persons coming to us are voluntarily disclosing. That means that we have a responsibility to keep information confidential. We also have responsibilities to work with students in areas that provide information on a limited basis to the institution, yet we're not faced with the resources that will provide us entirely with those.

We heard before from David Lepofsky about concerns about luxuries. There aren't luxuries in a university system. We have millions and millions of dollars of deferred maintenance; safety is an aspect that must come first, according to the Ministry of Education. Those things must be dealt with even before access. How we are going to deal with those remains a question.

The final issue is the one of cost, and people have spoken before about \$5 million to \$15 million. The reality is there is a quarter-of-a-billion-dollar liability there in making our universities reasonably barrier-free. That's our estimate. We can't prove it today, but we believe, in an unaudited fashion, having worked with and

spoken with all of the university people, that that's a significant issue. Where does that quarter of a billion dollars come from? Transfer payments today were flagged at the same level. Mr Axworthy is talking about decreasing transfer payments. The reality is that we want to continue to provide service, we want to increase that service, and yet we're faced, like everyone else, with extremely difficult times.

Dr George: We're happy to turn it over now for questions from members of the committee.

Mr Malkowski: I have one question for you. You were saying, in theory, that perhaps maybe a student levy, we were talking about that, for a more holistic approach for students to get in. Why not disabled students and non-disabled students have access or a levy, something like that?

For example, note-takers can go a long way to help both disabled and non-disabled people. There are lots of services that all students can use, is the point. Why not look at something like that, a sharing of information at universities, and to show what successful accommodation has done for those said departments or whatever? You were saying earlier that your problem was communications, that you haven't got the good message out. Then what's your strategy to do that?

Dr George: May I just reply briefly. We have produced a number of reports, and continue to produce reports, on our general contribution to achieving goals of equity of access to post-secondary education. Those are available, they're in the public domain, and we're quite happy to make them available. Most of those reports are sent to all MPPs on publication, but if there are ones that aren't in your hands we're happy to deliver them.

On the issue of a levy on fees in principle, that would be an interesting issue to explore. The fact is, however, that ancillary fees are governed by protocols in which students have a veto over the initiation of such fees. That was part of the agreement reached with the Minister of Education and Training around the tuition issue this past year. We're not at liberty to propose or to put in place increases in student levies to achieve these kinds of goals. These are things that would have to be done through the initiative of student governments.

Ms Haeck: Hello, Dr George. We haven't had a chance to meet each other in these environs for a while. Going back to my days on public accounts and definitely the review that was undertaken by that committee into university funding, also raises the spectre that—and I know this is a matter of the newer university and thinking of the one in my own community, Brock, which doesn't have a particularly large reserve fund, but there are some universities, shall we say, that are little more well-endowed with regard to reserve funds. The one probably across the street is the best example. I'm wondering, in light of the kind of bequests and the reserve funds that they do have, what information can you provide this committee as to their commitment to making use of some of those moneys—not just the government moneys but the moneys that they already have on hand—to make sure that some of these initiatives could be accomplished?

Dr George: That is not information that I have to

hand, but the fact is that any earnings of those funds that are directed towards the operating costs of the institution will be handled—

Ms Haeck: No, no, reserve funds; they're not operating.

Dr George: No, but the fact is that I'm talking about the earnings of reserve funds. One of the commitments of boards of governors generally, under the current fiscal environment, is to maintain reserve funds intact and to use the interest or proceedings of those funds to help defray some of the operating costs of the institution. Those issues are dealt with through budgetary advisory committees and then approved by the board, and expenditures of those funds are consistent with the priorities as established by the university boards of governors in the end. It would be an issue that would have to be discussed with each of the institutions to see how they're making use of those reserve funds and the interest earnings accruing to them.

Mr Curling: I want to thank you for coming forward. I must confess to you, though, that I'm not quite worked up about this process. This is very serious legislation, a very serious bill, and even considering the fact that Larry O'Connor from the government has stated in the House that this bill has the full support of the entire caucus, now I'm hearing that the life of this bill has a couple of hours and then it just expires, like a mission impossible.

1700

I agree with you that the targeting of the post-secondary institution is somehow skewed or biased in a way. It's almost like saying, "If you made it this far, you should make it the rest of the way." Elementary and secondary schools of course should be seen as some greater access to that.

Notwithstanding all of that, even with the cut in funding to post-secondary institutions, do you see, in any way, that there is more that can be done, regardless—because this bill won't see the light of day—that post-secondary institutions can do more for people with disabilities?

Dr George: There's always more that can be done. The question here, I think, is one of self-identification of students who have disabilities, but I would remind you and the committee that in the last four years we have had close to a 50% increase in the number of students who have self-identified and who have received accommodation from our institutions. I submit that a 50% increase in that number is a very significant achievement during a period when, as you know, government and total funding has been under siege. But I would ask any of my colleagues to contribute to the answer, if they wish.

Dr Susan Weaver: I think it's fair to say that the universities are doing more all the time. The targeted funding we receive from the ministry has not increased since the envelope was first announced, and in fact for some universities, because of the realigning of the allocation, some of us actually saw a reduction in the funds we received, but our numbers of students have gone up significantly while funding has stayed the same or in fact decreased. We're doing more and our institu-

tions are contributing more outside of the envelope of funding.

We're not doing enough; there is no question that we're not doing enough. We're working with students who self-identify. There are many, many students in our institutions who have not identified, for whatever reason. The numbers we've provided in our brief today are certainly not the numbers of students with disabilities in the universities in Ontario.

Mr Dalton McGuinty (Ottawa South): Thank you very much for your presentation. I can understand some of the frustration the presenters must be experiencing at a time when our universities seem to be built on shifting sands, what with the federal axe about to fall, OCUA funding review under way, and I know that Joan Homer—I see her in the audience today here on behalf of colleges—is also very concerned about the implications this would have in terms of the costs associated with addressing some of the shortcomings in our physical plant in particular.

I'm not sure what I have in terms of a question for you, except to say that I am very sympathetic to what it is that Mr Malkowski is attempting to do through this legislation. Perhaps I could ask, what is it that you are doing to further address some of the needs of a community that is being targeted by Mr Malkowski's bill, in some creative process under way which will allow us, with no more new money, to meet these needs?

Dr George: The rider "no more new money" is like the shifting sands you began your metaphor with: Shifting financial sands is what they are; educational research bases are very strong indeed.

But I think every institution is reviewing these initiatives continually. I think we have had a tremendous amount of mileage out of the disabilities envelope of the Ministry of Education and Training. That money has not increased in real terms, but it has been used to leverage funds within the institutions and certainly to leverage the realization of our obligations to service the disabled population of students. I think it has heightened awareness, has led to much greater sensitivity and approachability in counselling services, and I think this is bound to continue. So we needn't look just at the size of the disabled envelope, which we all agree is insufficient, but also its leverage effect both on the resources and on the attitudes prevalent in the institution.

Mrs Cunningham: Thank you very much for appearing before the committee this afternoon. It's good to see Western represented again.

Mr Chair, you should all know this has been a tremendous focus, certainly in my riding at the University of Western Ontario, and other ridings, because I know some of my colleagues on this committee and where they've been involved in the colleges and universities. I think we've made tremendous gains in the last decade; some of the things we're talking about now never would have been discussed publicly. One of the greatest gains I've noticed in talking with the commissioner for students with disabilities, with the university student councils across the province, is the ability of disabled people to come forward and talk frankly about their needs.

So I have a question. Given the concerns of the previous advisory group on employment equity, which I very much relate to from a personal point of view, I think the following should happen, and I'm wondering if the universities and colleges can respond in some way, as this bill is about post-secondary education.

I think we need a 10-year plan, and for those of us who know about the gains being made with regard to the learning-disabled, all kinds of learning disabilities, I think the plan will change from time to time, depending on new technology and depending on availability of new resources, but I think the one resource that is truly missing is the human resource. We've noticed in at least seven of our universities where the students have been called upon themselves to be part of the solution in helping people with learning disabilities, sometimes given credit for course work, sometimes being paid. That's an area that is totally untapped.

The greatest caregiver my own son had was a caregiver his own age, and when I say "caregiver" it is in many formats that I speak. That's an untapped resource of young people who want to be with their peers, at football games, when they're studying, when they have to get up in the morning, when they have to eat. Have we really looked at that resource? I'm not trying to pass the buck in this regard; I know that dollars and cents are extremely important, one of our greatest liabilities right now at the universities given the present discussions. But have we really looked at a resource? Does government have to do everything? Is there not some way we can be using these people with these boundless energies in caring for others in this capacity? I don't know. Have the universities looked at it?

Dr George: May I offer a personal commentary rather than one associated with my role as president of the council? I think there are basically two issues here. One is investment in physical capital, the need to make our institutions more physically accessible and to provide the kinds of infrastructural investments that will increase access to learning opportunities. I think the other, that Ms Cunningham puts so well, is the human resource aspect of it, and I'm thinking here of the challenge to the students, to the majority of students in our institutions. I think there is a tremendous unleashed potential among those students, in many ways. I know at certain times of the year they engage in quite intensive charitable activity, in cystic fibrosis shines and so forth. There are some institutions that actually have student-community volunteer systems in place.

The idea of challenging the student government and student associations to provide mentorships and student buddies for disabled students is a very interesting and challenging one. I don't know if any of my colleagues would like to add to this. Bill?

Mr Hoch: I think, without exception, there is not a university institution that does not have that type of program in place. But the reality is that when your numbers are growing 50% or 100% a year, it's impossible to keep pace in terms of finding volunteers, volunteers who are trained, because there is some training necessary in order to do some of these things, for a

number of reasons: so that students can have proper notes, or so that they can be cared for, if it's a care situation, in a way that's not going to harm them. The reality is that those things are happening now, yet we're still not, in many ways, able to keep pace with the growth, and the growth is just tremendous.

The Chair: Mr Hoch, Dr George, Dr Weaver, and Dr Selleck, thank you for taking the time to come and give this presentation to this committee today.

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INJURED WORKERS' CONSULTANTS
ONTARIO NETWORK OF INJURED WORKERS GROUPS
INDUSTRIAL ACCIDENT VICTIMS GROUP
OF ONTARIO
TORONTO INJURED WORKERS'
ADVOCACY GROUP

The Chair: We invite the Injured Workers' Consultants, Toronto Injured Workers' Advocacy Group, and Industrial Accident Victims Group of Ontario to please come forward. We welcome you here today. As you notice, 20 minutes goes by very quickly. It doesn't allow much time, obviously, for you to make lengthy presentations and also give time for the members to ask some questions. So as a reminder, do your best to allow as much time as possible for the members to ask you questions, okay? Perhaps one of you can introduce the rest.

Mr Orlando Buonastella: Yes. We represent four organizations. My name is Orlando Buonastella, from Injured Workers' Consultants; it's a legal aid clinic that represents injured workers. With me are: Sebastian Spano, who works at Industrial Accident Victims Group of Ontario, another similar legal clinic, funded by the Ontario legal aid plan; John McKinnon, who represents the Toronto Injured Workers' Advocacy Group, which is a coalition of legal clinics in the field; and Karl Crevar and Joan Crevar, who represent the Ontario Network of Injured Workers Groups, obviously, from the name, an injured worker group association of 34 groups spread across all communities of Ontario.

We're here in support of the intent of Bill 168. We, as injured worker groups, have spent the whole summer trying to convince the government not to go ahead with de-indexation of WCB benefits on another bill, Bill 165.

We find it a bit ironic that the government is not listening to us in terms of our appeal not to cut the cost-of-living increases for injured workers, so we're not able to convince the government on that front, it seems—and we hope there's going to be a change tomorrow—yet we are here supporting a bill that is very positive in its intent and is not getting due government support, we find, although we would like to appeal to all the members here and to the government members to make it a bill that's successful, that it either is passed this session or, if for some reason it isn't—and it would be regrettable—that there be a consensus among all parties to put it in the book, so to speak, so it can be continued in another session.

Before we talk some more about the details of this bill, we would like to commend the work of Gary Malkowski.

Mr Malkowski has been very helpful to injured workers, not only in his riding but throughout Ontario. It was Gary who helped us have access to this building on June 1, when we had several problems with the staff to get access, and it has been Gary Malkowski who raised a lot of our concerns in terms of injured worker legislation. Keep up the good work, Gary.

Without any further comment from myself, I'll turn it over to Karl Crevar.

Mr Karl Crevar: Good afternoon. First of all, I want to thank the panel here for giving me the opportunity to be able to present to you our views from the injured worker community. I don't profess to know all the details of the bill itself, Bill 168, which Mr Malkowski introduced in the House, which we do support very firmly. In the injured worker community, one of the main issues that has arisen is the problem of getting injured workers back into the workforce, because there are barriers, barriers in the workplace.

This bill on equal access for all should be passed, it must be passed, and it should have consensus from all members of the House around this table. Simply because it was introduced at such a late date does not mean the issues are going to go away. The issues are here, they're going to stay, and they're just growing.

I find it somewhat disturbing when we talk about introducing legislation, bringing in an act for those who need assistance, for people with disabilities, and we talk about dollars and cents. What is a life worth today? In our view, in my personal view, a life comes before dollars and cents. When you look at the issues within the disability community and injured workers that they face every day because of the barriers—they have the right to live, they have the right to exist, yet we sit around the table and we have to bring in legislation to recognize that. The human value must come first, before the dollars and cents.

If you look at the rate of unemployment of persons with disabilities, which runs around 60%, and that's not including injured workers with disabilities as a result of a workplace injury, the numbers are staggering. It's time we looked after those who cannot help themselves.

I know I've been one to go on talking, and we do want to leave some time open for you and my colleagues here do have some other things they want to address. Again, thank you for giving us the opportunity to present.

Mr Sebastian Spano: As you heard from Orlando Buonastella and Karl Crevar, we agree with the principles in the bill and we think it is about time that the government did act to take some perhaps more ambitious steps in trying to address the problems of access, the disabled generally. While we agree with the bill in principle, we have a number of concerns with the bill as it is drafted, and we'd like to bring these to your attention when you're considering them.

One of the problems we see is enforcement. We believe the act is weak in that respect and needs to be bolstered. Perhaps the first solution we recommend is to eliminate the clause in the act enabling the making of regulations that could exempt certain institutions, persons,

service providers, from complying with the act. There is a section here under which perhaps certain institutions can apply to the government for a special regulation to exempt them from complying with the act. We think this is totally unnecessary, and also it's quite dangerous.

There should be no blanket exemptions for anybody. If any particular institution has a concern that it cannot comply with any part of this act, then it can address those concerns or direct them to the Ontario Human Rights Commission where it would be properly dealt with. I think giving a kind of blanket exemption would certainly, or most likely, circumvent the Ontario human rights processes set up in the Ontario Human Rights Code. What we recommend is simply case-by-case adjudication.

I think you got a taste of it earlier with the group before us, a taste of what some institutions might potentially argue and call for. The group before you argued that cost is a big concern, that they may not be able to comply. We think they should not be given an opportunity to come out of the terms of the act.

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What we do recommend, though, is that perhaps the Ontario Human Rights Commission could be bolstered. There are a number of ways you might be able to do this: You could certainly provide additional funding for enforcement, you can add to the budget of the Ontario Human Rights Commission, or you can create a separate fast-track appeal process for dealing with complaints under this act. You can also make money available for compliance by perhaps making funds available to the institutions and agencies that would be affected by this act to help them comply, to help them make accommodations for the disabled; perhaps some funds as well to staff at the Human Rights Commission to assist these employers on how to develop these programs.

Finally, the other concern we have with the exemption clause, if I can go back to the exemption clause, is that it seems to set a lower standard for undue hardship when an agency or an employer is trying to argue that it can't comply. It simply talks about an "undue financial burden," and we think this is totally inconsistent with the standard that's set out in the Ontario Human Rights Code, which specifically mentions that it ought to be undue hardship that the employer or agency must demonstrate.

On that point, I'll close. Thank you.

Mr John McKinnon: I just wanted to make a couple of comments about two things: about the purpose clause, and about the issue of ministerial accountability for the implementation of this legislation.

With respect to the purpose clause, we did have an opportunity to review the brief of the Ontario public service advisory group, and they raised some concerns about the scope of the purpose clause. It may be helpful to consider addressing some of the escape routes in there, because we think it should be equal access not just to services and facilities but also, since the government is one of the largest procurers of goods in the province, we think the bill should guarantee equal access to goods as well as services and facilities, and this might be a useful addition to the bill.

At the same time, in terms of the barriers, we believe the goal should not just be aimed at the deliberate and systemic barriers, but that it would also be useful to specify that we're aiming at the unintentional barriers as well; also, not just the removal of existing barriers, but hopefully we're going to put in place some legislation which will prevent the formation of new barriers as technology and service delivery progresses.

The second point I wanted to deal with was the issue of ministerial accountability for the implementation of this legislation.

We believe that it's very important that the minister who is designated as responsible for this legislation actively study the dimensions of the problem. Statistical analysis should be done and the figures should be obtained about the problems we're dealing with and the problems we're trying to address. This should be reported annually to a committee of this Legislature, and it should be done in the context of public hearings so that the people whom this bill is supposed to benefit have an opportunity annually to evaluate the success of this bill in front of the Legislature. We think that public hearings and ministerial studies of the dimensions of the problems are important key tools to ensuring that this bill is implemented in the most effective way possible.

Just to wrap up, we appreciate that Bill 168 may not be perfect or may not be any particular party's or any particular disability rights organization's idea of the ideal law. However, there does appear to be a broad consensus among the people who are most concerned that this bill would be a significant step in the right direction.

Injured workers support the bill because injured workers need all the help they can get. If you think that the workers' compensation system is addressing all the concerns of injured workers about barriers to access to service and facilities, you're sadly mistaken; and not just services at the Workers' Compensation Board—although if you take a look at the statistics, you'll find that among the permanently disabled, even a year to three years after the injury there is still a 79% unemployment rate among injured workers with permanent disabilities—but also, injured workers need access to the service and facilities at Queen's Park. As Mr Buonastella mentioned, Mr Malkowski has helped us, but there are obviously still significant problems with injured workers getting here and being heard.

So, as we've spent the past six months trying to stop the government from proceeding with a bad bill, Bill 165, we're worried that nothing may be done to implement this bill and to pass a good bill, and we urge all the parties to bring this bill into the Legislature and to give it serious consideration. And if you wanted to table Bill 165 and proceed and vote on Bill 168, then you have our blessings on that.

Thank you very much for the opportunity to speak to you today.

Mr Curling: And thank you for your presentation. I just want to correct you a bit, and I stand very humbly in trying to correct you. The minister did not support this legislation as it is written, she said; she says the intent. Neither did the government. The entire caucus did,

though, as stated in the presentation made by Mr O'Connor.

I was concerned when I heard the minister's presentation and she did not request any kind of cost assessment from any of the ministries, like the Ministry of Transportation. That told me the whole story; that told me this legislation would not see the light of day.

Because of the short time we have here to question you—and you indicate some concerns, like any legislation that comes before us, where you'd like some amendments—I won't even deal with that now because of the time element. I think what our caucus will do is request further time, when this House recesses or prorogues, to hear this bill. Maybe that's one of the requests that will get the full support of all the members here, that when it prorogues on Thursday, not only will a motion pass to keep it alive but also that the hearings will continue so we can continue the direction or the intent the minister stated.

I want to thank you for making your presentation. My great concern is that regardless of the intent of Mr Malkowski, I think his caucus and this government will not listen to him. If we are quite serious about this situation, we'll proceed with it in this manner.

Mr Gilles Bisson (Cochrane South): After that quite non-partisan comment, I'd ask a question to the presenter. Karl Crevar made a comment that it's unfortunate that in this day and age it takes legislation to move on some of these issues, that it should be just the way we do business and just the way we operate as a society, to provide access for all people. But if it's not done through legislation, how? That would be the question I would ask.

Mr Crevar: Don't misunderstand what I said. My concern was that, as shown in the past, it takes legislation to address a problem that's been there for many, many years. People with disabilities have a right as human beings, we have a right to everyday living. Those were just my personal comments on that particular question.

Mr Malkowski: I just wanted to have the opportunity on the record to thank you for coming with your presentation. It was very helpful, and I very much appreciate your time. Thank you.

The Chair: Any other question? We'd like to thank you, Mr Buonastella, Mr McKinnon, Mr Spano, and Mr and Mrs Crevar, for coming and participating in these discussions. This committee is adjourned until tomorrow.

The committee adjourned at 1730.

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Marland, Margaret (Mississauga South/-Sud PC) for Mr Harnick
Wiseman, Jim (Durham West/-Ouest ND) for Ms Harrington

Also taking part / Autres participants et participantes:

McGuinty, Dalton (Ottawa South/-Sud L)

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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J-88

J-88

ISSN 1180-4343

Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Tuesday 6 December 1994

Journal des débats (Hansard)

Mardi 6 décembre 1994

**Standing committee on
administration of justice**

Draft report:
Victims of crime

Ontarians with Disabilities Act, 1994

Chair: Rosario Marchese
Clerk: Donna Bryce

**Comité permanent de
l'administration de la justice**

Rapport préliminaire :
Victimes d'actes criminels

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICECOMITÉ PERMANENT DE
L'ADMINISTRATION DE LA JUSTICE

Tuesday 6 December 1994

Mardi 6 décembre 1994

*The committee met at 1605 in room 228.*DRAFT REPORT:
VICTIMS OF CRIME

The Chair (Mr Rosario Marchese): Before we begin with hearings and the deputations that we have, I understand Mr Chiarelli has a motion with respect to another matter that this committee has to deal with.

Mr Robert Chiarelli (Ottawa West): This particular matter won't take any more than three or four minutes. The motion is:

That the committee's draft report under standing order 125 on the Relationship Between Victims of Crime and the Justice System in Ontario, Current Status and Improvements, dated May 1994, be adopted with the following changes incorporated into it: recommendations made by Mr Winninger dated June 7, 1994; recommendations made by Mr Chiarelli dated June 1994; recommendations made by Mr Murphy dated May 4, 1994; and

That any dissenting opinions be submitted to the clerk of the committee by 12 pm on Thursday, December 8, 1994; and

That the Chair be authorized to present the report to the House on Thursday, December 8, 1994, prior to receiving the French translation of the report.

This deals with a matter that has been ongoing at the justice committee over I think probably a year now, and we've had a number of subcommittee meetings. There really are three minutes left in the designated time to deal with this particular issue, and at a subcommittee meeting it was determined that this motion would be appropriate in order that the report can be finalized. So I certainly would welcome any comments from any other individuals.

The Chair: Any further discussion?

Mr David Winninger (London South): I was just going to indicate government support for the motion.

Ms Margaret H. Harrington (Niagara Falls): I'd like to thank Mr Chiarelli for bringing it forward.

The Chair: We're ready for the question. All in favour? Okay, that's unanimous. That deals with that matter that has been needed to be dealt with for quite some time, and I'm glad we have dealt with it.

ONTARIANS WITH DISABILITIES ACT, 1994

LOI DE 1994 SUR LES ONTARIENS
QUI ONT UN HANDICAP

Consideration of Bill 168, An Act to ensure Equal Access to Post-Secondary Education, Transportation and Other Services and Facilities for Ontarians with Disabili-

ties / Projet de loi 168, Loi garantissant aux Ontariens qui ont un handicap l'égalité d'accès à l'enseignement post-secondaire, aux transports et à d'autres services et installations.

ONTARIO URBAN TRANSIT ASSOCIATION

The Chair: We're ready for our first deputation, the Ontario Urban Transit Association. I would call upon Mr Dave Roberts, deputy executive director, to come forward. Welcome, Mr Roberts. You have 20 minutes for your presentation. Leave as much time as you can within that 20 minutes to allow members of the different caucuses to ask you questions.

Mr Dave Roberts: Thank you, Mr Chairman. I'm sure I won't need anywhere near 20 minutes. I'll make it as brief as I can. I brought along a written summary of our brief, which I believe has been handed out to you, and with your permission I would like to briefly go through it.

First of all, certainly our thanks for your invitation for us to address you here on this bill.

The Ontario Urban Transit Association represents transit systems throughout the province, serving approximately seven million Ontarians in urban areas. Our members provide regular and specialized services to people with disabilities and have been doing so very successfully for many years. I say this in spite of ever-increasing demand and ever-tightening constraints on resources.

In addition to specialized transit, Ontario's systems are now committed to making all transit services fully accessible to everyone. This is something they all agree with in principle. However, it will take time as vehicles are replaced and facilities are built or modified and, I might add, as funding permits.

As a result of the Minister of Transportation's June 1992 announcement of full accessibility to transit as provincial policy, municipalities with transit systems have adopted implementation plans with strategies and time lines to achieve full accessibility. This is the case for every municipality in the province that has a transit system. These plans were developed by advisory committees involving municipal officials, consumer group representatives etc. In addition, our association and our members have worked very closely with the ministry over the last several years to implement the easier access program, which makes conventional transit easier to use for seniors and those with frailties or ambulatory disabilities.

While we support the general objective of the bill, to make transit facilities and services accessible for persons with disabilities, we do feel the existing programs,

particularly the MTO full accessibility initiative and the continued provincial funding support for specialized transit, will be the most efficient and effective way to achieve our objective. I should add that the continuation of funding is probably the most important aspect of that.

We feel that forcing accessibility issues through legislation is not necessary in that it will stretch too thin the limited available funds of both municipalities and the province. This could very well have the effect of ultimately denying services to those who need them most, given the current financial constraints that we have at the moment, and it does run the risk of giving rise to lengthy legal challenges.

We also have serious concerns that the wording of several provisions in the bill, mainly those in part II, "Access to Transportation," will be unworkable and not affordable and will work against the positive initiatives of municipalities and the province in trying to bring about full accessibility in a realistic and cost-effective manner.

Our concerns with specific sections are as follows:

First of all, under definitions, the definition of "disability" in the bill is much broader than the Ministry of Transportation's guidelines for eligibility for specialized transit services. Entitlement to specialized transit is presently linked to physical disability, which would have to be defined separately such that it could be made consistent with MTO policy through regulation.

The MTO eligibility guideline states that those who cannot climb three steps or walk 175 metres to a transit stop should be eligible for specialized transit. It is then the responsibility of municipalities to apply the guideline, in light of local conditions, to their own eligibility criteria, which of course they do.

In spite of the guideline, many systems are often unable to accommodate trip requests from persons with mobility devices due to demands from others who could use conventional transit. Broadening eligibility through the proposed legislation would only worsen this situation unless significant additional provincial funding could be made available. Obviously, full accessibility is the longer-term solution, but that's something we're not quite at just yet.

Under "Access to Transportation," the part of the bill that of course most directly affects us, under section 11, which is the entitlement to public transportation, the provision of public transit is a municipal responsibility. As the section is worded, it will create an excessive demand for specialized transit service which cannot be satisfied without greatly increased funding. It needs to be qualified in two ways. Number one, entitlement to specialized transit must be based on functional disability, consistent with specialized transit eligibility criteria, and number two, the entitlement should only apply where public transit systems exist. Just as a point of clarification, they do not exist in about 700 of the 900 municipalities in the province.

On section 12, which relates to the transit systems that would be designated in regulations, these regulations will need to recognize that conventional transit will not be fully accessible until existing transit vehicles are replaced.

This process will be phased in over an 18-year period, based on existing provincial bus replacement policies.

On section 13, to do with curbs and sidewalks, the wording should refer to "new" or "rebuilt" curbs or sidewalks such that it would not mandate accelerated retrofit programs which may well be unfeasible and unaffordable.

Section 14, service plans: Again, the wording should refer to municipalities providing transit services, since the majority, mostly rural ones, do not. In those which do have transit, this has already been achieved through the MTO full accessibility initiative.

On section 15, the comparability of services, most transit systems which provides both specialized and conventional services do offer similar hours of service. The word "comparable," however, needs to be clarified in that many aspects of conventional and specialized transit are quite different by their nature, particularly with respect to response time.

Specialized transit is a customized curb-to-curb or door-to-door service which must be pre-booked and scheduled in order to accommodate all requests. This typically requires at least a day's notice and cannot be considered "comparable" with a conventional service operating, say, every 10 or 15 minutes on a fixed schedule on a fixed route. Even when conventional transit becomes fully accessible, many with more severe disabilities will still have to use specialized services.

Under part III, "Access to Government Publications," and part V, "Communications," the comments here apply to both. Having to immediately provide, for example, transit materials like maps, schedules etc in Braille and audible formats would be very costly to municipal transit systems and the province, especially where special equipment is required. Again, rather than forcing this through legislation, other mechanisms or initiatives such as the MTO's full accessibility program should be considered so that this can be done in a more feasible and affordable manner.

Finally, under the items dealing with regulations, clause 20(e), just a point that fares and conditions of carriage are set by municipalities and should continue to be so, since the municipality is responsible for any shortfalls in revenues.

Just to sum up, again we fully support the overall objectives of full accessibility and feel that the existing programs are working well, but we do strongly believe that putting legislative constraints on these initiatives could well be counterproductive and could ultimately jeopardize our being able to reach our goal.

An additional comment is that the bottom line for municipalities very simply is funding. Municipalities are as supportive of full accessibility as anyone is, but they simply don't have the funding right now and would not until such time as some additional funding becomes available. They have gone through a couple of very difficult years with the social contract and the expenditure control plan, and the amounts of funds that they've been able to get from senior government have gone down considerably over the last couple of years.

I might also add that we have discussed this matter with the Association of Municipalities of Ontario, or AMO, and although they were not able to come to the meeting here today, they will be sending you a brief on their behalf in the next couple of days as well.

The Vice-Chair (Ms Margaret H. Harrington): Thank you, Mr Roberts. I will allow each caucus three minutes. Let's start with the Liberal Party.

Mr Chiarelli: I just want to refer to a couple of points in your submission. On page 1 you indicate, and I'm quoting here, "Forcing the issue through legislation is not only unnecessary, it will stretch too thin the limited funds of both municipalities and the province, which will ultimately deny services to those who need it most."

When you say "to those who need it most," who are you referring to?

Mr Roberts: The situation that's happening in a lot of systems is that when you have funding constraints like we have right now, there is only a certain amount of trips that they can provide, and the fear is that widening the eligibility criteria is going to make it more difficult for people in mobility devices, for example, to get service as opposed to, say, finding ways of being able to perhaps better accommodate others who don't need a lift-equipped van and can use either conventional service or perhaps taxi service or whatever the case might be.

Mr Chiarelli: The other question I have refers to Part II, "Access to Transportation." You indicate that, "As the clause is worded, it will create an excessive demand for specialized transit services which cannot be satisfied without greatly increased funding. It needs to be qualified in two ways," and you indicate several qualifications here.

Presumably, in the legislative framework that type of concern or qualification can be accommodated by the section dealing with the Lieutenant Governor having the right to make regulations. Are you suggesting that you'd rather not have the legislative framework at all, or are you suggesting that perhaps this is the type of qualification that could be included in the regulations which are contemplated by the act as it's written?

Mr Roberts: If that can be accommodated through the regulations, fine. I certainly don't pretend to be an expert on what can go in the legislation, what can go into regulation. Just as long as there isn't something in legislation that basically doesn't provide any controls on what in this case municipalities in particular, and the province as well, can afford to provide.

The Vice-Chair: Now we'll move to the Conservative Party.

Mr David Tilson (Dufferin-Peel): The issue of cost sort of jumps out on this whole issue. I come from a small municipality in my riding, specifically Orangeville, which has a small municipal service. They're just holding on by their teeth just operating a general transit system. They implemented it a number of years ago, three or four years ago, and they're having a tough time. So I guess I look at the intent of imposing some of these requirements on municipalities. Do you have any knowledge about other municipalities that might be similar to the one I've

spoken of that might just simply say, "We can't afford operating a system at all"?

Mr Roberts: I guess the answer is that we hear those kinds of discussions happening especially in smaller municipalities. I know of none that have actually made that decision to not operate their transit system, but certainly that has come up in councils in a lot of small systems. It also came up in the disentanglement discussions a couple of years ago as well, where it was very clear that the provincial subsidies were the only thing keeping transit systems alive in some small systems.

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Mr Tilson: Yet we talk about the replacing of vehicles, the refitting of curbs and sidewalks, the developing plans, and I don't even know what that means—well, I do know what it means, but as far as economic impact, and that's just municipal issues, and then there are a whole bunch of provincial issues. Has anyone that you know of sat down and actually costed out what this might mean? Maybe it's impossible to do.

Mr Roberts: In fact, the plans have been done by all municipalities that operate transit. This is a requirement of the full accessibility initiative. In those plans, they have had to actually come up with capital and operating expenditure plans, among another things, that would lay out, say, over a number of years how they can replace vehicles, how soon they can get accessible vehicles, as well as the time lines that would allow them to do things like improve some of the onstreet hardware, things like that.

The ultimate cost, of course, is determined municipality by municipality, and I think it's also fair to say that the municipalities crafted these plans basically within the economic framework as we know it today, which meant that they are able to work towards things, but only as financial capability allows.

Mr Tilson: Has your organization discussed the possibility of phasing in many of these programs? It just seems to me, and I have no idea what it costs, but just listing off some of the things that would be required by this legislation, the cost would be unbelievable, particularly for smaller municipalities, but larger ones might be able to sustain it.

Has your association ever discussed the phasing in of some or all of the proposals that are being put forward in this legislation over a period of time in order to enable municipalities to properly budget or forecast some of the things that are being suggested?

Mr Roberts: We have discussed it and I think that's one of the underlying points of our brief, that phasing in makes sense. Phasing in is what municipalities would have to do in order to be able to afford to do these things.

Mr Tilson: That is not what the bill says.

Mr Roberts: Our fear with the bill is that it may preclude phasing in. It may say that all of a sudden this has to be done tomorrow. Again, no one disputes that these things need to be done, but it's a question of ensuring that the bill is not going to be something that is unrealistic or unfeasible from a funding point of view.

Mr Tilson: I return to my first question, then. Having said that, and I'm looking specifically to smaller municipalities, if smaller municipalities had to incur this expense, if the phasing in was not allowed, might that simply encourage the shutting down of transit services?

Mr Roberts: That certainly is possible. For a council faced with that kind of choice, that may be the kind of decision they may have to make.

The Vice-Chair: Now we have three minutes for the government party.

Ms Christel Haeck (St Catharines-Brock): I was looking at your point 16 with regard to access to government publications. There are a number of things that I know have been done within the precinct to facilitate getting information. I'm wondering, with the kinds of technologies that are available today, if even sort of a bulk buying situation across a number of systems might not facilitate getting that kind of information out. If in fact this has been considered by your organization, are you aware of maybe the kinds of technologies that are out there and what might be of use to expediting the request for information?

Mr Roberts: I'm sure the technology is there, and a lot of those types of issues were discussed as part of our easier access project as well. It again is a question of cost and how quickly our municipality is capable of doing things. Most municipalities are including these kinds of considerations within their full accessibility program or plans and it's just a question of how quickly they can phase them in, what they can afford to do from year to year.

Ms Haeck: Even with the availability of CD-ROM packages and what have you about being able to create maps and other things, I'm not sure to what degree that's available. I know most of the municipalities have some PCs or other technology within their confines, and that possibly at least some aspects of this may not be as costly. Has anyone really looked at the costings involved?

Mr Roberts: I'm sure the costing has been looked at by local transit systems, certainly. We haven't done that in our role as an association, but our members I'm sure have and they'll take every opportunity to make use of that as they're able. That will certainly help to speed things up but it still, of course, doesn't necessarily guarantee that all changes can be made immediately.

Ms Haeck: St Catharines is the city from which I come. A local entrepreneur has undertaken the development of a taxi service which is a private service. Are you aware to what degree something like this might be available in other communities?

Mr Roberts: As far as taxi services are concerned, a lot of specialized transit systems make very good use of taxi service and it's a far more cost-effective way of providing transit, both for conventional taxis and accessible taxis. The other side of the coin, and I'm not sure which one you're referring to in St Catharines, is that there are also taxi companies that are becoming more accessible as well. But from the consumer's point of view, then, they're paying a taxi fare for this rather than a transit fare.

The Vice-Chair: Thank you very much, Mr Roberts, for coming to the committee this afternoon. I'm sorry we are so late in beginning.

DRAFT REPORT:
VICTIMS OF CRIME

Mr Chiarelli: Madam Chair, there's one other house-keeping responsibility that we have to attend to, which will take about one minute, with respect to the first motion that we had.

The Vice-Chair: It's a point of order, then.

Mr Chiarelli: It's a point of order. It's a correction to the motion that had previously been made.

The Vice-Chair: To deal with the motion, could we take one moment, please? In order to deal with this, we need consent of the committee to look at a motion that we have passed.

Ms Haeck: Madam Chair, not to deviate from this, but I would think that in some respects this should be coming after the presentations rather than now. We've got the people—

The Vice-Chair: That is up to the committee if it wishes to deal with this point of order at this time. Do we have unanimous consent? Mr Chiarelli has said that it would take one minute, but it's up to the committee. Agreed? Fine.

Mr Chiarelli: The last part of the motion should read, "That any dissenting opinions be submitted to the clerk of the committee by 12 pm on Friday, December 17, 1994," and the last sentence will read, "That the Chair be authorized to present the report to the Clerk of the House on Friday, December 17, 1994, prior to 5 pm, prior to receiving the French translation of the report."

The Vice-Chair: Thank you. That is a correction to the motion that is proposed by Mr Chiarelli. How many in favour of Mr Chiarelli's motion?

Mr Gary Wilson (Kingston and The Islands): Is that date right, though? Did you say Friday, December 17?

Mr Chiarelli: Yes.

Mr Gary Wilson: It should be 16, shouldn't it?

Mr Chiarelli: That's correct, 16.

The Vice-Chair: A further correction?

Mr Chiarelli: Yes.

The Vice-Chair: All those in favour of Mr Chiarelli's motion, please indicate. All those opposed? That motion is carried.

Mr Chiarelli: Thank you for your indulgence, Chair.
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ONTARIANS WITH DISABILITIES ACT, 1994

LOI DE 1994 SUR LES ONTARIENS
QUI ONT UN HANDICAP

(Continued)

CANADIAN NATIONAL SOCIETY
OF THE DEAF-BLIND

The Vice-Chair: Now I'd like to call upon the Canadian National Society of the Deaf-Blind, and I believe it is Ms Karen Fleming who would like to address us this afternoon.

Ms Karen Fleming: Thank you for inviting me here today. I'm replacing Mr Kerry Wadman, who had a prior commitment.

I, myself, am a fellow consumer member of the CNSDB. I'm a deaf-blind person. I'd like to give you some viewpoints from the consumer background. Before I begin my actual presentation, I'm just going to offer you two brief definitions to help you understand better.

The first definition is the definition of "deaf-blindness." A deaf-blind person is an individual with a substantial loss of both vision and hearing. The combination results in a significant problem in accessing information and pursuing recreational, social and educational goals. Deaf-blindness is a unique disability which requires specialized services, including adaptations in communication methods. The most important requirement for a deaf-blind person is another person who provides intervention.

Intervention is offered as a professional service, it can be paid or voluntary and it facilitates interaction of deaf-blind persons with their environment. Intervention can include translation, interpreting, transliteration, guiding, habilitation and rehabilitation teaching. Most importantly, the intervenor provides services to deaf-blind persons in their preferred communication method. Without an intervenor, I would not be speaking here today. In short, an intervenor is the eyes and ears of a deaf-blind person.

Deaf-blindness is a very, very isolating disability, the most isolating disability. Deaf persons can access the world around them by picking up things through their vision. Blind persons can listen to things, the radio and the TV, and know what's happening in the world around them. A deaf-blind person has none of those options.

How a deaf-blind person accesses information: The key is intervention. The problem is, currently the average deaf-blind adult receives five hours a week of intervention services. That may seem satisfactory to you, but you try to imagine if you were only allowed to use your eyes and your ears for five hours a week.

In addition to intervention, deaf-blind people require information in alternative media, examples like large print or Braille. There are a lot of access devices available for blind people, for deaf people. Most of those devices require adaptation for deaf-blind people's use and adaptations of equipment can be prohibitively expensive. I don't want to go on and on about devices. There are wonderful pieces of equipment out there but they're not all accessible for deaf-blind people, because of a lack of training, the cost of the equipment and the complexity of the use of the equipment. Many devices now require some kind of vision or some kind of auditory feedback.

There is present legislation for people with disabilities, for example, the Mental Health Act, the Substitute Decisions Act and the Advocacy Act. But how will a deaf-blind person access the information to know about these acts? How can we guarantee rights of freedom and choice? You can't learn about them through the TV; you can't read about it in the newspaper; you can't listen to the radio. The only way is through an intervenor. That's why the ODA is so important.

ODA is the great opportunity to focus in on the

potential of people and to provide equal access for all people. Barrier-free environments for all; you've all heard those words before. It doesn't just mean a ramp, but Braille on elevators, for example, information available in large print on signs etc.

Although access can be expensive, the alternative is much worse. A person loses his or her rights to freedom and can become dependent on welfare and on social assistance. With ODA and equal access, a deaf-blind person can become a contributing member of society.

The Vice-Chair: Thank you very much for your presentation. We will have questions by the committee, the government members first.

Mr Gary Malkowski (York East): Thank you for your presentation and all the information that was included. That was very helpful to us here on the committee, I think, to hear that.

For the record, unfortunately, the PC members aren't here and aren't able to hear the valuable input you have given us. I think that's sad, but I hope they'll hear the presentation at another time and be sensitive to your needs.

I want to ask you specifically about your presentation. You want the private member's bill here, but are there any changes you want, any amendments, like talking about guarantees of intervention services? You mentioned the five hours a week of intervention services. Why is that? Is it because of lack of funding or because there aren't enough intervenors who are able to work in that area? What could we do to improve that situation specifically?

I understand George Brown College is offering an intervention training program. Has that helped with the availability of intervenors to provide services for deaf-blind people?

Ms Fleming: In the past, there weren't enough intervenors. It was a big problem. Now, with the program at George Brown, there are a lot more intervenors available but the biggest problem continues: lack of money. There are still many people who get no intervention service because they're on waiting lists. They can be on a waiting list for 10, 20 years. They're basically waiting for another deaf-blind person who's receiving service to die. Then they can get access to more service.

Mr Malkowski: Just to follow up on that question: So the government has provided funding. Is there a problem because of the lack of intervenors, though, or a lack of funding? Is that the basic problem?

Ms Fleming: Lack of funds.

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Ms Haack: This bill attempts to deal with post-secondary education. Yesterday, we heard from the Council of Ontario Universities. They indicated that they had made some efforts to address a number of concerns. In the case of someone who is attempting to attend a post-secondary institution who is part of the deaf-blind community, what kinds of services are currently available, particularly at the university level? If you have information about the college level, I would be interested in hearing about it as well.

Ms Fleming: Presently, in Ontario there aren't a lot of post-secondary education opportunities available. If deaf-blind persons want to go to university, they can apply for vocational rehabilitation services and funding for that. The deaf-blind person will need an intervenor and a note-taker and some way of translating notes either into Braille or large print, so computer equipment, definitely.

Right now, there is a program through educational support services for part-time students. Its primary focus is on deaf students, but they will accept and pay for an intervenor, but they don't cover the extra costs like transcription into Braille or large print.

The Vice-Chair: Now we'll go to the Liberal Party.

Mr Chiarelli: Thank you very much for your presentation. It certainly was informative to me, personally. I want to bring to your attention a statement that was made by the previous presenter and I want to ask you a question or two about one of those statements and the bill which is before us.

If I can quote from the brief of the Ontario Urban Transit Association, it says, "Forcing the issue through legislation is not only unnecessary; it will stretch too thin the limited available funds of both municipalities and the province, which will ultimately deny services to those who need them most."

I want to address your attention to the phrase "to those who need them most" and to your comment that a deaf-blind person, on average, has five hours of intervention per week. The previous presenter is talking about having to make those choices about people who need it most. Obviously, a deaf-blind person needs it more desperately, if you can put it that way, than someone who is only deaf, and choices have to be made, as I interpret that previous comment. But my understanding also, of the bill which is before us, is that by regulation the government "may" adopt plans and timing for implementation.

I'm asking you if you contemplate, under those regulations, that there would be a phasing in, in terms of time, according to need. In other words, they would address resources and timing perhaps firstly to deaf-blind persons because there's more of a need, as opposed to other people, if they can be defined as having less of a disability. Do you contemplate the government phasing in according to need the people with disabilities or do you contemplate this legislation getting up to speed and the resources and the implementation being made concurrently for all classes of disabled people within a very short time frame? It's a long question, I know, but I think it's important for me personally that I get some idea of your conception of staging and timing versus the need question.

Ms Fleming: I understand your point. Of course, if it could all happen overnight and there would be services for all disabled people, that would be the perfect situation, but really we know that can't happen that way. Nothing happens overnight. I think the key with ODA is that the needs of disabled people become noticed and that some kind of legislation is set up, some kind of funding and services and supports can be increased so things can change. It's not going to happen overnight. I think it will

be a slow phase-in process with different additions.

The Vice-Chair: I'd like to thank you, Ms Fleming, for coming to our committee. You've been very helpful.

CANADIAN HEARING SOCIETY

The Vice-Chair: Our next presentation is the Canadian Hearing Society. I believe we have three people who are with us today, Ms Lori Dolomont, Mr Donald Prong and Ms Loretta Tarsiuk, if you could come forward. Please introduce yourself. You have 20 minutes for your presentation, and I hope you will leave some time for questions.

Ms Lori Dolomont: Good afternoon. I'm Lori Dolomont, and this is Donald Prong. Unfortunately, Loretta Tarsiuk was unable to be with us for the presentation today, so the two of us will just proceed. We'd like to present the Canadian Hearing Society's position paper, which I believe has already been distributed to the committee.

For over 50 years, the Canadian Hearing Society, a non-profit charitable organization, has been providing services for deafened, hard-of-hearing and deaf consumers. Due to consumers' demand for accessibility to society in general, we provide sign language interpreting, oral interpreting, a hearing aid program, audiology, sign language classes, counselling and advocacy.

Since we know accessibility enables our consumers to contribute to society, we support the Ontarians with Disabilities Act legislation.

For people who are deaf, deafened and hard of hearing, the ability to contribute to society depends on their successful participation and education. Our consumers, many of whom are professionals or have post-secondary degrees, find it difficult to continue with their further education because the post-secondary institutions throughout Ontario are not equipped to provide full communication access.

For instance, when these people want to return to school to upgrade their skills or get another degree, they must depend on limited government support. However, vocational rehabilitation services would not cover the costs for communication access, such as sign language interpreters, oral interpreters, assistive listening devices and/or notetakers, for someone who has already reached an identified vocational goal, since VRS gives financial support once and no further. Also, VRS does not provide support for part-time students. There is limited funding which exists through the educational support services at the Canadian Hearing Society for some part-time students. These are the most common barriers which are faced by our consumers.

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A truly equitable society would enable any person to have full access to services provided at any postsecondary institution. Deaf, deafened and hard-of-hearing individuals should be able to register for any course without getting VRS approval, as is the right of hearing Ontarians. It should be the college's or universities' responsibility to provide this access. More specific recommendations are included in the attached paper on post-secondary education.

In response to the drastic reduction of positions requiring manual labour, the government has established training programs, such as Jobs Ontario, enabling people to gain required technological skills and experiences to meet the needs of the current working society. Unfortunately, most of the training programs do not include communication access in their budgets, which causes frustration among our consumers.

Many travellers who are deaf, deafened or hard of hearing often find that they do not get as much information as their hearing counterparts because most of the information is delivered verbally through a public address system. All travellers—not only deaf, deafened and hard of hearing but all travellers—can benefit from visual information systems, such as, for example, on the GO trains, when they're announcing the stops, why not have route maps which have visible blinking lights which show each station the train has pulled into?

The Ontario government has a lot of public videotapes explaining its systems and services. Unfortunately, again, these videotapes are not closed-captioned. ASL videotapes would be essential to ensure communication of complex legislation, such as employment equity and human rights.

Once the Ontarians with Disabilities Act legislation is established, our government can be proud that its mandate is finally accomplished. This can lead to an expansion of visible professionals from our consumer group. More businesses which depend on advanced technology will benefit from our consumers' new skills and new experiences. This will definitely be compatible with the current Employment Equity Act.

The Ontarians with Disabilities Act: Everyone should consider its importance in Ontarians' lives. One must remember that the government was made by people for people, and for too long opportunities and full participation have been limited for deaf, deafened and hard-of-hearing people. ODA is the government's chance to change things for the better.

The Vice-Chair: Thank you for your presentation, Ms Dolomont. Now we will have questions from the committee. Would you like to start, Mr Tilson?

Mr Tilson: Thank you for your presentation. The question I asked the first presenter is similar, the issue of cost. I suspect when you go to—and I assume you have, your organization has gone to universities or others and you have made representations that certain things should be done to improve the plight of the disabled. I suspect the answer that's been given is: "We don't have the money. We don't have the financial resources to make the changes that are being asked for." I suspect that's the answer.

My question to you is, whether it's post-secondary groups or others, have you been able to make suggestions as to how it could be made feasible? Maybe my assumptions are wrong in the first place. I don't know.

Ms Dolomont: I would like to refer this to Donald Prong. He is a vocational rehabilitation counsellor and has been involved in education of the deaf for many years.

Mr Donald Prong: What's important to me is that we're looking at deaf, deafened and hard-of-hearing students and people who are taxpayers as well, and they should be equal members of society. To me, there's no question about that. I think the government does need to prioritize needs, but I think we need to straighten out what our priorities are. I don't think we're spending our resources in the best way at the current time. As was presented earlier, we talked about maybe having to decide what those priorities for our resources are, but we are also taxpayers and often feel as if we get no services in return. I think that's one point I would like to emphasize.

Secondly, the colleges and universities seem to have very weak policies in place regarding special-needs students. This is something I have experienced through my negotiations with the various colleges and universities in Ontario. They're given a large sum of money, and then they decide how they prioritize use of that money, and often that is delegated in some ways by the government.

Hard-of-hearing, deaf and deafened people are only asking for equality. Our access to colleges and universities is very limited. For example, OISE is the only institution that has accepted responsibility to provide for the needs of its students. I don't understand why other institutions are not able to do it. Is it due to limited awareness? Is it just lack of exposure? And who should be doing that? Who should be educating these institutions about their responsibilities? Does that fall on the government?

Mr Tilson: Do I still have time?

The Vice-Chair: Yes, you have one more minute of your four minutes.

Mr Tilson: I appreciate all of the things that you're saying, and there's no question—I never like to pat Mr Malkowski on the back too much because he and I come from different parties. Notwithstanding that, to give him credit, he's made more of an awareness of the disabled issues many of you are speaking about today, so I do give him great credit for that, against many odds, I might add.

But notwithstanding that issue, there's the public awareness issue, but there's also the issue, and I am quite concerned, as to the response you might want us to say: "Well, here's where there's waste. You might have a certain amount of money designated for certain things, for a particular disabled issue. You could do away with this following issue of waste." Has your organization got into that type of lobbying, whether it be universities or municipal governments or provincial governments?

Mr Prong: I would have to say that we have not to date. I understand that the College Standards and Accreditation Council has initiated some of that work, and it would appear that the government is taking some action in priorities for colleges and universities.

I feel that it's everyone's responsibility to be on watch for waste, not any particular group, and I'm not pointing fingers at the government. I think it is a shared responsibility, I would agree. But I believe we also need your cooperation in order to ensure that disabled people do have full access and are able to fully participate. Quite

often, we don't have the opportunity to be involved in initiatives such as this.

1700

For example, we requested to be able to present to the committee today, and through our negotiations with the government, or the setup of the meeting, we were told that we needed to bring our own interpreters for the committee. I'm wondering, where is the access there? I'm wondering if people are having, say, even monthly meetings, who is responsible to provide interpreters for those?

We pay property taxes for services, and we just expect to be treated equally with our neighbours. It's an issue of access. I think everyone needs to think about people as equals, because we are human too.

You're right, it is a money issue, and we need to look at how to best prioritize the use of those limited funds.

Ms Dolomont: If I could just add to Donald's comments, I think we also need to be aware that there are many consumers and employment counsellors, not necessarily within the Canadian Hearing Society. I see many good people out there who are very skilled and very creative in their problem-solving skills, but unfortunately they can't get jobs because they're unable to access training.

I feel the government could benefit from the contributions of many deaf, deafened and hard-of-hearing people, but they have to get into the system first, and in order to do that, you're right, funds are needed to make programs accessible for them. We know taxes are important. That's where our access will come from. That's where programs come from. But we need to be able to get in the door to those classrooms first, before being able to contribute to society, and we often have to fight for any degree of access.

People invite us to be involved in training but then don't provide the access, such as interpreters, due to lack of funding. So you don't see deaf people involved in psychiatry or many of the other professions and deaf people are not looked at as well-rounded individuals. But I think you need to open up your minds and see that deaf people are able to contribute equally if we have that access.

The Vice-Chair: Now we have questions from the government members, beginning with Ms Haeck.

Ms Haeck: Thank you very much for your presentation. I've looked a bit through the appendix that you've attached, and on page 10, number 4, you actually provide a list of shall we say physical plant issues with regard to proper lighting and such like.

Yesterday, when the Council of Ontario Universities was here, they indicated that they felt funding was a concern, but also that they were trying to make some inroads when they were making additions or changes in their buildings. I'm wondering if you are aware to what degree consultation with the disabled community is going on to make sure that some of the things you have listed on page 10—very valid points, needless to say—are being incorporated to any physical plant change that is occurring.

I understand even the pile in the carpet frequently will affect how someone who is in a wheelchair can easily move through a building. Obviously the lighting is something that's extremely important for yourselves, and as well, even being able to get through hallways for someone who is visually impaired. They find that certain lighting works better than others.

I think Ryerson again provides a very good example where in fact their special unit for the disabled gives us the means at hand to judge—what shall I say?—the accommodations that really work for the disabled community and, as you very rightly point out, virtually for everyone else. Are there committees that are working with the disabled community to make sure that colleges and universities are making the appropriate physical plant changes?

Mr Prong: A few years ago there was a group called Access 2000, and the purpose of that was to see all colleges and universities, as well as any other public institutions, any type of school, the airports, to be sure that they could share some creative ideas to meet the needs of disabled consumers. Unfortunately, that group seems to have folded. They didn't have enough volunteers. Now various disabled groups are trying to set up their own groups and set up their own projects to deal with some of these issues, but again there's lack of funding. There is in fact very little funding provided for this type of work, so it's a real struggle to get these kinds of committees up and running, and we haven't had a lot of luck to date.

Ms Haeck: I know when they were building the courthouse in St Catharines the administrators invited members of the local disabled community to walk through and make sure that things were as they should be. In fact, they found that there were many problems. Brock University is part of St Catharines. I'm wondering if you necessarily always need a formalized structure. Can it be on a more ad hoc basis as things move along with changes being anticipated at a facility?

Ms Dolomont: Many committees do work in that way, but there's nothing concrete for us to work with. There is nothing such as ODA that you can use to get your point across to people. You can set up committees and have discussions and have studies. I think people have had enough of that and are waiting for something concrete we can use to make these changes happen.

People spend a lot of their time and their energy trying to educate people and get burned out. So we're looking at one piece of legislation that can get that point across and save us a lot of that work. You're correct, people can network with disabled groups, and we have the human rights charter, which is nice, but it's not specific enough. I think ODA will give people the structure they need to carry on with this work.

Both of us, when you brought up the ideas of committees, looked at each other thinking that we've been involved in so many committees and have seen nothing happen because of that. We're looking for something official and something we can use to work with, but we need that structure to enable us to do this work.

Mr Malkowski: I have a question for Donald Prong.

In your experience as a vocational rehab counsellor, you send your students to colleges or universities in Ontario or send them to a college or university that has a sign language environment, for example, George Brown or Gallaudet. Perhaps you could give a little bit of an idea what is spent in terms of cost of mainstreaming a student or spending it on a student who would go to a sign language environment.

Then a second part: Many hard-of-hearing or deafened students need real-time captioning, and often colleges and universities will set up real-time captioning, but is that beneficial for only deafened and hard-of-hearing students? There are many hearing students who I think would tend to look at and use the captioning. If you could give me what you have seen as your observations on real-time captioning, is it beneficial just for that group or is it beneficial for everybody?

1710

Mr Prong: In response to your first question, I've sponsored several students to attend Gallaudet University, and there are a lot of people who think that's a waste of money, it's too expensive. It might be \$20,000 or \$25,000 per student for one year, and they may need five or six years to complete their education in the States. That includes cost of tuition, books, transportation, room and board.

There's a lot of money spent on students going out of the province. Some people think we'd be better off to spend that money with an interpreter going to university here. The student here can apply for OSAP and we would pay for any remaining costs. Interpreting services in Ontario for one student may be \$50,000 for one year, so which is cheaper? Going to Gallaudet?

But I also need to say, and we'd like to emphasize, that we do get tax back when we send the students to school in Ontario, because the interpreters themselves have to pay tax on that money. We're also creating jobs here in Ontario versus spending money outside of the province. Of course, hopefully, if a student goes to Gallaudet, they'll be returning to Ontario and bringing those skills with them. So there are some positive side effects of that as well.

As far as your second question, about captioning, is concerned, it's a very good point that there are many colleges and universities that do provide such service, real-time captioning, and many of the hearing students find this quite fascinating and even look into it as a job opportunity as students themselves, thereby creating more jobs here.

Whatever the teachers say is typed word for word, so whether it's a deaf, a hard-of-hearing or a hearing student, any of them could benefit from those notes.

Mr Malkowski: Do you feel that there should be a college or university similar to Gallaudet established here in Ontario? Do you think that it would save taxes in Ontario?

Mr Prong: Yes, for sure.

The Vice-Chair: A very good question.

Mr Prong: That will create jobs that will bring tax money.

The Vice-Chair: We have to move to the Liberal Party.

Mr Chiarelli: I apologize for missing the first part of your presentation, but I've since read through your brief and I've heard your comments since I've been back in the room. I want to draw your attention to one statement that you make in your brief, that this bill, ODA, as you refer to it, "is the government's chance to change things for the better."

I compliment the member for having introduced the bill and having created this opportunity for dialogue, but we have seen from the minister and the government side that this bill perhaps has an uncertain future as to when it will be dealt with and what its final form will be.

I guess my question to you is: In the interim, although you say this "is the government's chance to change things for the better," are there any other government actions that can be taking place right now that could improve the situation for the disabled without the legislation being in place?

Interjection.

Mr Chiarelli: I have a couple of supplementary questions and observations.

The Vice-Chair: We are running over time.

Mr Chiarelli: We should have equal time.

Interjection: Yes, we should.

Mr Chiarelli: It's up to the Chair.

Ms Dolomont: I would say that we do recognize that the government has taken some steps to improve and to continue improving services. I think we have seen improvements to access. The government is attempting to listen to people, but we also believe that once ODA is instituted, things will be much easier for us. I think improvements will be faster if ODA is instituted and if the structure is in place. It has been a very slow but ongoing process for us, but we do feel that the government is listening. Access is still an issue.

Mr Prong: If I can just add to Lori's comments, I believe the governments, including municipal governments, have been trying to do their best. It's a very big problem. The largest problem we have is dealing with individual businesses, because there is no legislation. If I have my own company, I can decide what I want to do. There's no legislation for disabled people. I think ODA would help to rectify that.

I go to the States quite often for various events and the hotels there, once I tell them I'm deaf, have rooms all set up for me. They've got captioning there, they've got TTYs, they've got flashing lights in the hotel rooms. That's a business. The reason that happens is because of the Americans with Disabilities Act. That's had a very big impact on businesses, and I would be looking for the same results here in Ontario.

Mr Chiarelli: Very briefly, I guess what I'm trying to say is that although the legislation may be very useful, sometimes it's been said that you can't legislate common sense and caring. My sense is that there is a lot that can be done now. For example, in your brief you indicate, "Unfortunately, most of the training programs do not

include communication access in their budgets, which causes frustrations among our consumers."

I think the administration costs, for example, in Jobs Ontario fund is something in the order of \$16 million. I'm not trying to be unduly critical of the government, because I'm sure that the same type of insensitivity has applied to previous governments, but it would have been probably an easy thing for that program to have incorporated some additional funding to assist disabled people.

In the same context, I have a file in my office which was originated by a practising lawyer in the province. He has done an analysis of the Judicial Appointments Advisory Committee. This is a committee which is dedicated to making sure that judges are appointed in an objective and fair manner. They have referred in their 1993 report to the fact that they have made some 90 recommendations for appointments and they have referred to appointments of women, racial and ethnic minorities, but there was no reference to disabled people. Indeed, to the best of our information, they have not interviewed one disabled person for the bench.

I guess what I'm saying is that whether it's this government or a new government or the previous government, it's that type of sensitivity which can parallel legislation. You can't necessarily legislate common sense and caring; that's something that has to be inculcated in all of the legislators in all of the parties. In that regard, I compliment the member who sponsored the bill because this dialogue, without even passing the legislation, is going to be helpful here at Queen's Park.

I guess what I'm trying to suggest is that while the disabled community is being tenacious on this type of issue and the legislators becoming sensitized to it, there is a lot more that can be done short of passing this legislation.

The Vice-Chair: I think you may have answered your own question, but would you have some brief comment?

Mr Chiarelli: Do you have any comments on my statement?

Ms Dolomont: Yes. I would like to add that I think you're correct, that sensitivity is the key; I would have to agree with that. The problem is that if we're not out there working with hearing people in our everyday lives, how are they going to increase their sensitivity? It's only through exposure to us.

The few times that I have been able to get into a classroom at university it was a very enriching experience for me, but the students there, the hearing students, also learned from me, and the professor learned from me. I was the only so-called disabled person they had ever met so far. It was a learning experience for all of us and they became more sensitive. They would have to stop and think, "Lori is here now. Does she have something to say?" and make sure I was included, that I was able to go to meetings. If I came here and spoke with my hands, you would not be able to understand me. You are the people who are dependent on the interpreter, so people need to hear us as well. It's not that one language is better than another. Most people are not bilingual in sign and English.

ODA: some people think access means that it'll only benefit us, but it'll benefit everyone by increasing sensitivity. I think ODA will happen first and the sensitivity will come later. I really think that once you get to know us as a person, that's when the sensitivity will be developed.

The Vice-Chair: Thank you very much for appearing before this committee, to the Canadian Hearing Society equity training program.

1720

ADVOCACY RESOURCE CENTRE FOR THE HANDICAPPED

The Vice-Chair: Now I would like to call forward the Advocacy Resource Centre for the Handicapped, and I believe we have three people: David Baker, executive director; Ron McInnes, president; and Mimi Shulman, vice-president. I will note that we are starting at 5:22 and you have 20 minutes. Could you introduce yourselves before you proceed?

Mr Ron McInnes: I'm Ron McInnes. I'm president of ARCH. With me is David Baker, and as you've noted, our vice-president, Mimi Shulman, was scheduled to be here, but unfortunately emergency dental surgery is the only thing that has kept her from making an appearance.

First of all, we'd like to congratulate Gary Malkowski on introducing Bill 168 into the Legislature as a private member's bill, and we'd also like to thank the standing committee for the invitation to present this brief to it.

By way of background, I should tell you that ARCH is a legal centre serving Ontario's disabled community. It's governed by membership derived from 52 member organizations, and you'll find with our brief a package that lists all of those member organizations. Our primary functions include test case litigation, acting as counsel in the law reform process, public education and outreach.

ARCH has been retained as legal counsel by the Ad Hoc Ontarians with Disabilities Act Committee. However, at this point the committee's work is entirely procedural, so we are here today to present a brief on behalf of ARCH which is intended to provide this committee with some information and the benefit of ARCH's experience in this area.

I'd like to go back first to some issues on human rights and the emergence of an independent voice of persons with disabilities in the 1970s, at which time there followed an emphasis on human rights and barrier removal. The initial focus at that time was getting persons with disabilities included in the Human Rights Code, and that was achieved in 1981. But notwithstanding that, change has been very slow. We have general language about accommodating persons with disabilities to the point of undue hardship, but it requires a great deal of interpretation.

But really, the major problem with the Human Rights Commission has been procedural. People hesitate about filing complaints, although thousands are filed every year, and if you've seen the statistics, you'll know that the largest group filing complaints are persons with disabilities. But while thousands may be filed, only a very few go to boards of inquiry. Our information is that over a

recent six-month period only five complaints were referred to a board of inquiry; that is, to an adjudicator. That's five cases in total, not five disability cases. It's easy to see that the human rights process is overwhelmed in this province.

The process of barrier removal is not going to be achieved through that method. The government has chosen not to implement the recommendations of the Cornish task force report for financial reasons, and I think we've been on record as supporting those as improving the human rights process.

However, it's our feeling that an Ontarians with disabilities act would reduce the reliance on expensive, adversarial litigation. Resources could be directed at barrier removal rather than legal fees.

We are in a period of economic uncertainty and we are concerned with the costs of maintaining persons with disabilities in a state of dependency. I understand that today the Legislature passed a bill which will cut tens of billions of dollars out of compensation paid to injured workers. If Ontario was as successful as other jurisdictions in securing re-employment of its injured workers, it's our view that this amount or more could be saved.

We also have employment equity legislation but, in our view, this cannot operate in isolation. The government with its equity program has demonstrated this with a hiring goal of persons with disabilities of 7.1% but a hiring rate of about 0.5%. If the goals of employment equity are to be realized, systemic efforts at barrier removal must be made.

We've also included in our brief some information as an example of the case of Wheel-Trans operated by the Toronto Transit Commission and the parallel service and noted that the refusal rate as a percentage of unaccommodated ride requests has increased by 50% annually and now stands at 8.44%. This is not taking into account those people who are not refused but are offered a one-way ride with no guarantee of a way back or those people who just can't get through on the telephone lines.

So we come then to the Americans with Disabilities Act, which was signed by a Republican President in the United States in 1990. George Bush became an advocate of this legislation during the 1988 campaign and, according to a poll conducted after the election, after Mr Bush had announced his support for this legislation, there was a great swing in the disabled vote and this accounted for between 1% and 3% of the President's margin of victory, which in that election was only 4%.

So the reason for dealing with the Americans for Disabilities Act—the ADA—is that while there are significant differences between the ADA and the ODA, there are important similarities. We feel that both entrench the goal of equal access in a number of key areas where barriers currently exist, and that the method and timing for barrier removal is left to regulations. It isn't going to be an overnight type of operation.

The regulations provide clear guidance to service providers about the standards they are to achieve in the ADA, but really prescribe the means which are to be used to meet those standards. In fact, those standards are so

clear that enforcement is not an issue, although they can be enforced either by a government agency or by an individual complainant, and we feel that that same process could work here.

However, standards are of only theoretical interest. Persons with disabilities are interested in results. There has been a massive study of the effect of the ADA in the United States and it has shown that the number of barriers that were studied had decreased by nearly 50% compared to January 1992. That was a study in April 1993. So I think people in Ontario would be very gratified if in a period of 15 months 50% of the barriers that confront them were removed.

So we see ADA as an example of something which can be used in Ontario and ODA as something which builds on a base which is proven.

At this point I'll ask David to continue more specifically with the Ontario bill.

1730

Mr David Baker: The importance of the Americans with Disabilities Act was noted by Bob Rae, then the Leader of the Opposition, and in communication with leaders of the disability movement during the last election he indicated his support for the concept of an Ontarians with disabilities act. The precise quote is noted in our brief.

Following the election, the Minister of Citizenship asked the human rights research and education centre at the University of Ottawa and ARCH to conduct a broad consultation with persons with disabilities across the province. I have the material that was submitted to the government in 1992 with me. The importance here is that a lot of the work has been done and is available to the ministry, and we urge the ministry to carry on with that work in support of Mr Malkowski's bill.

The paper itself was never released and there has not, as the committee will be aware, been an official announcement by the ministry or the government of support for the ODA. Nevertheless, persons with disabilities across the province of Ontario remain very interested and keen to pursue the idea of an Ontarians with disabilities act.

ARCH has been requested by a large number of local communities to stage seminars in conjunction with local organizations; an example was the Windsor session, which I attended. There was a large room packed with registrants, persons with disabilities, in excess of 100 persons, and we were told by the organizers that they had to turn away at least as many people as they were able to admit to that hearing. I think that will give you some idea of the level of awareness and support across the province among persons with disabilities.

In conjunction with that, I would note that it would be important for the committee, if it were at all possible, to hear from persons from outside Ontario as an accommodation. You'll be aware that many of these people would have a great deal of difficulty coming to Toronto even should there be hearings here in Toronto to present to.

In terms of the content of the bill itself, we obviously cannot comment on the content of the report itself that

was provided to the Minister of Citizenship. However, we have shared with you, in an appendix, the product of consultation which ARCH annually goes through with its 52 member organizations concerning the priorities identified by these disability organizations. I would suggest you may wish to take a look at them. Certainly, that's the basis upon which ARCH establishes its priorities, and it may be of assistance to the government.

I would point out, though, that Mr Malkowski's ODA does address some of the very important issues on that list, which the government to date has not yet been able to address, notably transportation, human rights, post-secondary education and training. An important initiative of the government has been, as Mr McInnes has noted, employment, in particular employment equity legislation.

We do point out that for persons with disabilities, where good data is available, namely from the United States, over a 20-year period, the position of highly educated persons with disabilities, those with post-secondary education, has improved marginally; but for every other group of disabled persons, their position within the job market has become worse over the last 20 years, and we have no reason to believe that anything would be different in this country.

In fact, the limited data we have from our recent census would support this, that if people do not have access to post-secondary education and they have a disability, the kinds of jobs that disabled people found 20 years ago are no longer available. Things are changing faster than human rights legislation has been able to keep up with.

The Vice-Chair: I would ask you, Mr Baker, if you would allow time for questions.

Mr Baker: Yes; I'm sorry. I'll simply make two very brief points: first of all, that the bill itself aims at government and quasi-governmental issues as a priority which, I think, in light of the economic climate and so on, should make it a useful first step. Finally, we would urge that all parties work together to ensure that this bill does not die on the order paper on Thursday, that it is continued and that there be intersessional hearings continued to permit the many people across the province with disabilities, and of course others, to make submissions to you.

Mr Chiarelli: I appreciate your brief; it's indeed very informative. I have a question about the research that was done for the Minister of Citizenship, as to why that is not available to the public. Was that a consultant contract and it's the property of the ministry at this point and therefore you're not at liberty to release it?

Mr Baker: That's correct.

Mr Chiarelli: Have you or any advocates whom you're aware of asked the government why that report is not being released?

Mr Baker: We didn't feel it was appropriate for us, as the people having authored the report, to take that initiative.

Mr Chiarelli: Are you aware that any other group has asked for the report?

Mr Baker: I really can't answer that question. I know

that people were very aware that this work was done, because it involved consultations with every disability organization in the province and over 5,000 individuals. It was quite an extensive consultation.

Mr Chiarelli: Perhaps either during this session or after this session I can ask Mr Malkowski whether he's aware of any reasons why that report cannot be made or whether it was shared with him by the ministry in the preparation of his private member's bill. It would be interesting for the committee and the Legislature to know that, particularly since the report is so pointed and directed at this particular area.

Do you have any suggestions as to the progress of this bill other than the fact that we try to create some committee hearings? It's conceivable that the Legislature will not come back, and I guess I alluded to this earlier, that it has a very uncertain future. Do you think it would be useful just having the committee hearings, knowing that perhaps the election would interfere and we'd have to start with the process all over again?

Mr Baker: We obviously would like to see the hearings continue into the winter session. I don't know if that will be possible. That's certainly a matter, as we understand it, for the House leaders.

The idea of the bill itself I think is relatively simple, and whatever the particular issues that are included, the idea of setting the goal of equal access and then, by regulation, developing the means and the timetables and the budgeting, if you like, and the consultation through which to achieve that is something which we would urge be approached on a non-partisan basis, or a partisan basis, as people see fit.

We would like to see it move forward. I think the American example shows that it works and that it works in an economy which is less interventionist, if you like, than our own.

The Vice-Chair: I'd like to move to the government party. We have two people with questions, Mr Malkowski and Mr Winninger, to divide up three minutes.

Mr Malkowski: Just a brief question. Has ARCH done studies looking at the rights of disabled people, the Human Rights Code, other services, disabled people filing complaints, how much is spent on the legal process, how much time is spent? What are the costs of that? Is it beneficial to go through the legal process, through a lawyer? Are there any pros for disabled people there? Or do you feel that this legislation would reduce the time and energy and expense in trying to get equity? What would be the most beneficial for the disabled people, and not necessarily for the lawyers?

Mr Baker: Maybe I could refer to a case I was involved in today where the human rights complaint was filed in 1984. The issue involved in the case was a disabled child's right to be in kindergarten. She is now in high school. We have hearing dates scheduled into June of next year, and it would be very fortunate indeed if there's a decision in the case before she graduates from high school.

I should say that the expense involved in litigating that issue has been substantial for all concerned, including the

Ministry of Education and Training, which is one of the parties to the proceeding.

From the standpoint of persons with disabilities, I don't think there is any question but that the preference is to see whatever resources are available to ensure equity for persons with disabilities are committed to removing barriers and giving equal access, rather than providing people such as myself with a permanent income and pension plan.

Mr Winninger: I'd also like to thank you for your presentation and I am sorry you had to wait almost an hour to deliver it. Towards the end of your paper you suggested there be hearings and clause-by-clause review to make a stronger bill. I am just wondering if you have any thoughts at this stage as to what improvements or changes could be made to the bill.

Mr Baker: I think ARCH sees its role in coming before the committee as providing information, rather than specific advice. We are counsel to a coalition which is establishing itself and, in that capacity, we would be taking instructions from a client, which we feel is more consistent.

As we've said, the issues which are addressed seem to coincide with the information we have from our member organizations as to what are priority issues out there, particularly those within governmental control. They appear to follow a format of setting out the goal and then providing the means, by regulation, following a period of consultation, of achieving the goals.

The enforcement mechanism through the Human Rights Commission perhaps could be reviewed. The commission has problems. On the other hand, it could be said that this represents solutions to some of those problems.

I know that Mr Malkowski is constrained in a private member's bill from proposing the spending of resources on a new enforcement mechanism such as that which is proposed under the Employment Equity Act. That may not be desirable, but I know that couldn't be done in a private member's bill.

Mr Winninger: Is the definition of disability under the bill satisfactory at this stage to ARCH?

Mr Baker: I don't think ARCH specifically has a position on that. I think the desire would be to see a broad definition and then use the regulations to prioritize or, as Mr Chiarelli has said, to pay attention to the most important issues first. That could be done by regulation, we feel, so that as long as the definition is sufficiently broad as to prevent constraint or prevent things being

done which would be desirable, we feel that would be appropriate.

The Vice-Chair: Our time has expired. I want to thank the group named ARCH for coming forward today, and all the rest of the people who have been interested enough to come forward to hear this committee.

Now we have some further business.

Mr Malkowski: I move that the standing committee on administration of justice continue with hearings in clause-by-clause consideration of Bill 168 when the Legislature reconvenes in the spring, as well as pending the House leaders' agreement.

The Vice-Chair: I'll just repeat that. Mr Malkowski has moved that the standing committee on administration of justice continue with hearings and clause-by-clause consideration of Bill 168 when the Legislature reconvenes in the spring, as well as pending the House leaders' agreement.

Mr Chiarelli: Can I have a point of clarification from the member? Is he suggesting that the committee meet during the recess, or is he suggesting that it reconvene, if and when we have a new session of the Legislature, in the spring? I'm not sure I understand his intent.

The Vice-Chair: It says "when the Legislature reconvenes."

Mr Malkowski: That's right.

The Vice-Chair: Is there any further discussion on this motion? All those in favour, please indicate. Any opposed? That motion is carried.

I have one other suggestion to cover the business of the committee over the next couple of months: That, for the purpose of committee business over the recess, the Chair, in consultation with the subcommittee and, in the case of a private member's bill, in consultation with the sponsor of that bill, shall have authority to make all arrangements necessary for the orderly consideration of all matters referred to this committee.

Do I have a mover of this motion?

Mr Chiarelli: Do we have any—

The Vice-Chair: It's just in case something might come up.

Mr Winninger: I so move.

The Vice-Chair: Moved by Mr Winninger. All those in favour? Any opposed? That motion is carried.

I thank the committee members, and if there is no further business, this committee stands adjourned.

The committee adjourned at 1745.

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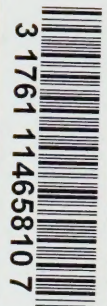
Substitutions present/ Membres remplaçants présents:

Jackson, Cameron (Burlington South/-Sud PC) for Mr Harnick
Lessard, Wayne (Windsor-Walkerville ND) for Mr Marchese

Clerk / Greffière: Bryce, Donna

Staff / Personnel: McNaught, Andrew, research officer, Legislative Research Service

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